

Ohio

Introduction and Table of Contents

August 24, 2009

To the Reader:

The *Compendium of State HIV Testing Laws* describes key state HIV testing laws and policies. Each state's HIV testing laws are unique and many have undergone revision or supplementation since the release of the [CDC's 2006 HIV testing recommendations](#). The *Compendium* is designed to help clinicians understand HIV testing laws and to implement sound HIV testing policies. It should not, however, be used as an official legal document.

The NCCC provides clinical consultation for healthcare providers as part of the HRSA [AIDS Education and Training Centers](#) program. Clinicians with questions about HIV testing are encouraged to call the *National HIV Telephone Consultation Service (Warmline)* at (800) 933-3413. The Warmline also provides advice on HIV management, including antiretroviral treatment. Other NCCC consultation services include: the National Clinicians' Post-Exposure Prophylaxis Hotline ([PEPLINE](#)) at (888) 448-4911 for advice on managing occupational exposures to HIV and hepatitis; and the National Perinatal Consultation and Referral Service ([Perinatal HIV Hotline](#)) at (888) 448-8765 for consultation on preventing mother-to-child transmission of HIV.

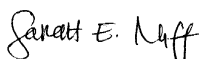
We update the *Compendium* periodically, but it is beyond the scope of the project to perform ongoing verification of every section frequently. We encourage readers to send comments, corrections, and updates (with citations when possible) to Sarah Neff at neffs@nccc.ucsf.edu.

Thank you,



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Director

&



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The Warmline, PEPLINE, and Perinatal Hotline are part of the National HIV/AIDS Clinicians' Consultation Center (NCCC) based at San Francisco General Hospital/ UCSF. The NCCC is a component of the **AIDS Education and Training Centers (AETC) Program** funded by the Ryan White CARE Act of the **Health Resources and Services Administration (HRSA)** HIV/AIDS Bureau in partnership with the **Centers for Disease Control and Prevention (CDC)**.

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Definitions and Helpful Resources

August 24, 2009

Definitions Commonly Used Nationally

- **Anonymous Testing** – Patient's name is not recorded with test results.
- **Confidential** – Patient's name is recorded with test results.
- **HIV Prevention Counseling** – Refers to an interactive process of assessing risk, recognizing specific behaviors that increase the risk for acquiring or transmitting HIV and developing a plan to take specific steps to reduce risks.¹
 - **Pre-test counseling** can include: (1) discussing HIV, risk factors and prevention methods; (2) explaining the meaning of positive and negative test results and their implications; (3) assessing the patient's personal and social supports; (4) determining the patient's readiness to cope with test results; (5) discussing disclosure of test results to others; and (6) advising the patient if reporting positive test results to health authorities is required.
 - **Post-test counseling** can include: (1) informing the patient of the results and meaning of the test results; (2) providing education about avoiding risks of sexual and injection drug exposures; and, for patients who test positive, (3) assessing the impact of test results for the patient and family; (3) explaining treatment options; (4) discussing partner counseling and disclosure of test results to others; and (5) initiating a support and treatment plan.
- **General Consent** – Consent for HIV screening is included in the general medical consent.
- **HIV** – Human Immunodeficiency Virus.
- **Informed Consent** – A process of communication between patient and provider through which an informed patient can choose whether to undergo HIV testing or decline to do so. Elements of informed consent typically include providing oral or written information regarding HIV, the risks and benefits of testing, the implications of HIV test results, how test results will be communicated, and the opportunity to ask questions.¹
- **Name-based reporting** – Cases are reported by patient name (required in all states except HI and VT).
- **Opt-in** – Patients typically are provided pre-HIV test counseling and must consent specifically to an HIV-antibody test, either orally or in writing.²
- **Opt-out** – Performing HIV screening after notifying the patient that: the test will be performed; and the patient may elect to decline or defer testing. Assent is inferred unless the patient declines testing.¹
- **Routine Testing** – HIV screening that is performed routinely during health-care encounters.
- **Rapid Testing** – Testing with any of the six FDA-approved rapid HIV tests that produce results in 30 minutes or less.³
- **Specific Consent** – Consent for the HIV screening is separate from the general medical consent.

Helpful Resources

CDC Recommendations and Guidelines: <http://www.cdc.gov/hiv/topics/testing/guideline.htm>

Emergency Department Implementation Guide: <http://edhivtestguide.org/>

Prenatal HIV Testing Website: <http://www.cdc.gov/hiv/topics/perinatal/1test2lives/>

For questions or comments about the compendium, contact NCCC: NCCCTemp@nccc.ucsf.edu

Clinicians with questions about HIV testing can call the Warmline at 800-933-3413.

¹ Revised Recommendations for HIV Testing of Adults, Adolescents, and Pregnant Women in Health-Care Settings. MMWR Recomm Rep. 2006 Sep 22;55(RR-14):1-17; quiz CE1-4. <http://www.cdc.gov/mmwr/preview/mmwrhtml/rr5514a1.htm>

² <http://www.cdc.gov/mmwr/PDF/wk/mm5145.pdf>

³ <http://www.cdc.gov/hiv/topics/testing/resources/factsheets/rt-lab.htm>

Ohio

A Quick Reference Guide for Clinicians to Ohio HIV Testing Laws

August 24, 2009

This Quick Reference Guide for clinicians is a summary of relevant Ohio state HIV testing laws. Note that if a section in this Quick Reference Guide reads “no specific provisions were found,” provisions actually might exist for this topic within the state’s statutes, codes, or rules and regulations, but probably are not essential to clinicians.

For a more complete synopsis of Ohio HIV testing laws, please refer to the section of the Compendium that follows this Quick Reference Guide.

Informed Consent

- HIV test may be given by or on the order of a health care provider who, in the exercise of the provider’s professional judgment, determines the test to be necessary for providing diagnosis and treatment to the individual to be tested, .

Counseling

- Post-test counseling in cases of HIV-positive results is required.

Provisos of Testing

- **Anonymous**
 - Patients may request anonymous testing.
 - Anonymous testing is available at designated anonymous testing sites.
- **Rapid**
 - No specific provisions regarding rapid testing were found.
- **Routine**
 - A policy to offer routine and voluntary testing may be adopted by a facility or physician.

Disclosure

- Notification to sexual partners of possible exposure to HIV is required.

Minor/Adolescent Testing

- Minors may consent to STD testing, HIV explicitly included.

Ohio

Perinatal Quick Reference Guide:

A Guide to Ohio Perinatal HIV Testing Laws for Clinicians

August 24, 2009

This Perinatal Quick Reference Guide for clinicians is a summary of relevant Ohio perinatal state HIV testing laws. Note that if a section in this Quick Reference Guide reads “no specific provisions were found,” provisions actually might exist for this topic within the state’s statutes, codes, or rules and regulations, but probably are not essential to clinicians.

For a more complete synopsis of Ohio HIV testing laws, please refer to the corresponding section of the *State HIV Testing Laws Compendium* (www.nccc.ucsf.edu), “Testing of pregnant women and/or newborns.”

Prenatal

- **Initial visit**
 - No specific provisions regarding initial visit prenatal testing were found.
- **Third trimester**
 - No specific provisions regarding third trimester prenatal testing were found.

Labor & Delivery

- No specific provisions regarding labor & delivery testing were found.

Neonatal

- No specific provisions regarding neonatal testing were found.

Other

- N/A

Ohio

State Policies Relating to HIV Testing, 2009

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Ohio Revised Codes Annotated [ORC]

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Ohio Administrative Code [OAC]

Title 3701: Department of Health	Pages 48-53
Title 3773: Ohio Athletic Commission	Page 54
Title 5101: Department of Job and Family Services	Page 55
Title 5120: Department of Rehabilitation and Corrections	Page 56

	Policy Category	Type	Section Code(s)
RESTRICTIONS/ MANDATES	Restrictions on use of HIV test	Public agencies may not require HIV test results from patients in order to obtain services	ORC §3701.245
		Insurance companies may not ask applicant whether he/she has ever taken an HIV test	ORC §3901.45
	Mandatory testing within the criminal justice system	All inmates may be requested to submit to HIV testing	ORC §307.93 ORC §341.14 ORC §341.19 ORC §341.21
		Persons charged with a sex offense	ORC §2907.27 ORC §2907.02 ORC §2907.03 ORC §2907.04
		Persons charged with prostitution, soliciting, loitering	ORC §2907.27 ORC §2907.24 ORC §2907.241 ORC §2907.25
	Mandatory testing outside of the criminal justice system	Occupational exposure – emergency services, funeral services may request notification of test results of source patient	ORC §3701.248

		Occupational exposure – health care workers, EMS, peace officers may pursue a court order for testing of source patient	ORC §3701.247
		Any human body part donated for transplantation	ORC §3701.246
		Any human body fluid donated for transfusion or injection	ORC §3701.246
		Boxers, prize fighters, wrestlers, professional mixed martial arts contestants	ORC §3773.34 OAC 3773-4-02 OAC 3773-7-21
		Certification of physician assistants, physicians, limited practitioners, anesthesiologist assistants, acupuncturists	OAC 4730.25 OAC 4731.22 OAC 4760.13 OAC 4762.13
PRE-TESTING	Mandatory offering of HIV/AIDS information and/or testing	Pre- and post-test explanation of HIV and testing is required for informed consent	OAC 3701-3-11
	Informed consent	Consent for medical or other health care may suffice when test deemed necessary for diagnosis and treatment by health care provider – written or verbal not specified	ORC §3701.242
		Consent required for insurance testing	ORC §3901.46
		No age limits on giving consent – minors OK	ORC §3701.242 OAC 3701-3-11
	Counseling requirements	Post-test counseling in cases of positive test results required	ORC §3701.242
	Anonymous testing	State department of health must sponsor anonymous testing sites	ORC §3701.241
		Patient has right to request anonymous testing	ORC §3701.242 OAC 3701-3-11
POST-TESTING	Disclosure/confidentiality	HIV test results as confidential	ORC §3701.24
		Exceptions to confidentiality	ORC §3701.243
		Sexual partner notification	ORC §3701.241
		Disclosure in health care worker exposure cases	ORC §3701.248
		Disclosure in emergency medical services exposure cases	ORC §3701.248
		Disclosure in funeral director exposure cases	ORC §3701.248
		Court orders may allow access to confidential test results	ORC §3701.243

	Reporting	HIV diagnoses must be reported – not specified name vs. code-based reporting; name-based since 1990	ORC §3701.24
OTHER	Testing of pregnant women and/or newborns	No related laws found	
	Testing of minors/adolescents	Minors may consent to STD services	OAC 5101:3-4-07
		Minors may consent to HIV testing; parents/guardians not liable for charges if test given without their consent.	ORC §3701.242 OAC 5101:3-4-07 OAC 3701-3-11
	Rapid HIV testing	No related laws found	
	Training and education of health care providers	Director of health responsible for establishing training programs	ORC §3701.241
		Operators of community alternative homes responsible for training of caregivers	ORC §3724.03

Recommended Resources

127th Ohio General Assembly

<http://www.legislature.state.oh.us/>

Ohio Revised and Administrative Code

<http://codes.ohio.gov/>

Ohio Department of Health

<http://www.odh.state.oh.us/>

Title [3] III Counties

OH Title III Code §	Code Language
§ 307.93	<p>Multicounty, municipal-county or multicounty-municipal correctional centers; privatization</p> <p>(H) If a person who is convicted of or pleads guilty to an offense is sentenced to a term in a multicounty correctional center or a municipal-county or multicounty-municipal correctional center or is incarcerated in the center in the manner described in division (C) of this section, or if a person who is arrested for an offense, and who has been denied bail or has had bail set and has not been released on bail is confined in a multicounty correctional center or a municipal-county or multicounty-municipal correctional center pending trial, at the time of reception and at other times the officer, officers, or other person in charge of the operation of the center determines to be appropriate, the officer, officers, or other person in charge of the operation of the center may cause the convicted or accused offender to be examined and tested for tuberculosis, HIV infection, hepatitis, including but not limited to hepatitis A, B, and C, and other contagious diseases. The officer, officers, or other person in charge of the operation of the center may cause a convicted or accused offender in the center who refuses to be tested or treated for tuberculosis, HIV infection, hepatitis, including but not limited to hepatitis A, B, and C, or another contagious disease to be tested and treated involuntarily.</p>
§ 341.14	<p>Advance deposit of prisoner costs; reimbursement by prisoner; testing and treatment for certain diseases</p> <p>(A) The sheriff of an adjoining county shall not receive prisoners as provided by section 341.12 of the Revised Code unless there is deposited weekly with the sheriff an amount equal to the actual cost of keeping and feeding each prisoner so committed for the use of the jail of that county, and the same amount for a period of time less than one week. If a prisoner is discharged before the expiration of the term for which the prisoner was committed, the excess of the amount advanced shall be refunded.</p> <p>(B) Pursuant to section 2929.37 of the Revised Code, the board of county commissioners of the county that receives pursuant to section 341.12 of the Revised Code for confinement in its jail, a prisoner who was convicted of an offense, may require the prisoner to reimburse the county for its expenses incurred by reason of the prisoner's confinement.</p> <p>(C) Notwithstanding any contrary provision in this section or section 2929.18, 2929.28, or 2929.37 of the Revised Code, the board of county commissioners may establish a policy that complies with section 2929.38 of the Revised Code and that requires any prisoner who is not indigent and who is confined in the county's jail under this section to pay a reception fee, a fee for medical treatment or service requested by and provided to that prisoner, or the fee for a random drug test assessed under division (E) of section 341.26 of the Revised Code.</p>

OH Title III Code §	Code Language
	<p>(D) If a county receives pursuant to section 341.12 of the Revised Code for confinement in its jail a person who has been convicted of or pleaded guilty to an offense and has been sentenced to a term in a jail or a person who has been arrested for an offense, who has been denied bail or has had bail set and has not been released on bail, and who is confined in jail pending trial, at the time of reception and at other times the sheriff or other person in charge of the operation of the jail determines to be appropriate, the sheriff or other person in charge of the operation of the jail may cause the convicted or accused offender to be examined and tested for tuberculosis, HIV infection, hepatitis, including but not limited to hepatitis A, B, and C, and other contagious diseases. The sheriff or other person in charge of the operation of the jail may cause a convicted or accused offender in the jail who refuses to be tested or treated for tuberculosis, HIV infection, hepatitis, including but not limited to hepatitis A, B, and C, or another contagious disease to be tested and treated involuntarily.</p>
§ 341.19	<p>Reimbursement of county by prisoner; testing and treatment for certain diseases</p> <p>(A) Pursuant to section 2929.37 of the Revised Code, the board of county commissioners may require a person who was convicted of an offense and who is confined in the county jail to reimburse the county for its expenses incurred by reason of the person's confinement.</p> <p>(B) Notwithstanding any contrary provision in this section or section 2929.18, 2929.28, or 2929.37 of the Revised Code, the board of county commissioners may establish a policy that complies with section 2929.38 of the Revised Code and that requires any prisoner who is not indigent and who is confined in the county's jail under this section to pay a reception fee, a fee for any medical treatment or service requested by and provided to that prisoner, or the fee for a random drug test assessed under division (E) of section 341.26 of the Revised Code.</p> <p>(C) If a person who is convicted of or pleads guilty to an offense is sentenced to a term in a jail, or if a person who has been arrested for an offense, and who has been denied bail or has had bail set and has not been released on bail is confined in jail pending trial, at the time of reception and at other times the sheriff or other person in charge of the operation of the jail determines to be appropriate, the sheriff or other person in charge of the operation of the jail may cause the convicted or accused offender to be examined and tested for tuberculosis, HIV infection, hepatitis, including but not limited to hepatitis A, B, and C, and other contagious diseases. The sheriff or other person in charge of the operation of the jail may cause a convicted or accused offender in the jail who refuses to be tested or treated for tuberculosis, HIV infection, hepatitis, including but not limited to hepatitis A, B, and C, or another contagious disease to be tested and treated involuntarily.</p>

OH Title III Code §	Code Language
§ 341.21	<p>Confinement of federal or state prisoners; medical care; drug tests; testing and treatment for certain diseases</p> <p>(A) The board of county commissioners may direct the sheriff to receive into custody prisoners charged with or convicted of crime by the United States, and to keep those prisoners until discharged.</p> <p>The board of the county in which prisoners charged with or convicted of crime by the United States may be so committed may negotiate and conclude any contracts with the United States for the use of the jail as provided by this section and as the board sees fit.</p> <p>A prisoner so committed shall be supported at the expense of the United States during the prisoner's confinement in the county jail. No greater compensation shall be charged by a sheriff for the subsistence of that type of prisoner than is provided by section 311.20 of the Revised Code to be charged for the subsistence of state prisoners.</p> <p>A sheriff or jailer who neglects or refuses to perform the services and duties directed by the board by reason of this division, shall be liable to the same penalties, forfeitures, and actions as if the prisoner had been committed under the authority of this state.</p> <p>(B) Prior to the acceptance for housing into the county jail of persons who are designated by the department of rehabilitation and correction, who plead guilty to or are convicted of a felony of the fourth or fifth degree, and who satisfy the other requirements listed in section 5120.161 [5120.16.1] of the Revised Code, the board of county commissioners shall enter into an agreement with the department of rehabilitation and correction under section 5120.161 [5120.16.1] of the Revised Code for the housing in the county jail of persons designated by the department who plead guilty to or are convicted of a felony of the fourth or fifth degree and who satisfy the other requirements listed in that section in exchange for a per diem fee per person. Persons incarcerated in the county jail pursuant to an agreement entered into under this division shall be subject to supervision and control in the manner described in section 5120.161 [5120.16.1] of the Revised Code. This division does not affect the authority of a court to directly sentence a person who is convicted of or pleads guilty to a felony to the county jail in accordance with section 2929.16 of the Revised Code.</p> <p>(C) Notwithstanding any contrary provision in section 2929.18, 2929.28, or 2929.37 or in any other section of the Revised Code, the board of county commissioners may establish a policy that complies with section 2929.38 of the Revised Code and that requires any person who is not indigent and who is confined in the jail under division (B) of this section to pay a reception fee, a fee for any medical treatment or service requested by and provided to that person, or the fee for a random drug test assessed under division (E) of section 341.26 of the Revised Code.</p>

OH Title III Code §	Code Language
	<p>(D) If a sheriff receives into custody a prisoner convicted of crime by the United States as described in division (A) of this section, if a person who has been convicted of or pleaded guilty to an offense is incarcerated in the jail in the manner described in division (B) of this section, if a sheriff receives into custody a prisoner charged with a crime by the United States and the prisoner has had bail denied or has had bail set, has not been released on bail, and is confined in jail pending trial, or if a person who has been arrested for an offense, and who has been denied bail or has had bail set and has not been released on bail is confined in jail pending trial, at the time of reception and at other times the sheriff or other person in charge of the operation of the jail determines to be appropriate, the sheriff or other person in charge of the operation of the jail may cause the convicted or accused offender to be examined and tested for tuberculosis, HIV infection, hepatitis, including, but not limited to, hepatitis A, B, and C, and other contagious diseases. The sheriff or other person in charge of the operation of the jail may cause a convicted or accused offender in the jail who refuses to be tested or treated for tuberculosis, HIV infection, hepatitis, including, but not limited to, hepatitis A, B, and C, or another contagious disease to be tested and treated involuntarily.</p>
§ 341.23	<p>Confinement of prisoners from county or municipal corporation having no workhouse; reimbursement policy; testing and treatment for certain diseases</p> <p>(A) The board of county commissioners of any county or the legislative authority of any municipal corporation in which there is no workhouse may agree with the legislative authority of any municipal corporation or other authority having control of the workhouse of any other city, or with the directors of any district of a joint city and county workhouse or county workhouse, upon terms on which persons convicted of a misdemeanor by any court or magistrate of a county or municipal corporation having no workhouse, may be received into that workhouse, under sentence of the court or magistrate. The board or legislative authority may pay the expenses incurred under the agreement out of the general fund of that county or municipal corporation, upon the certificate of the proper officer of the workhouse.</p> <p>(B) The sheriff or other officer transporting any person to the workhouse described in division (A) of this section shall receive six cents per mile for the sheriff or officer, going and returning, five cents per mile for transporting the convict, and five cents per mile, going and coming, for the service of each deputy, to be allowed as in cases in which a person is transported to a state correctional institution. The number of miles shall be computed by the usual routes of travel and, in state cases, shall be paid out of the general fund of the county, on the allowance of the board, and for the violation of the ordinances of any municipal corporation, shall be paid by that municipal corporation on the order of its legislative authority.</p>

OH Title III Code §	Code Language
	<p>(C) Pursuant to section 2929.37 of the Revised Code, the board of county commissioners, the directors of the district of a joint city and county workhouse or county workhouse, or the legislative authority of the municipal corporation may require a person who was convicted of an offense and who is confined in a workhouse as provided in division (A) of this section, to reimburse the county, district, or municipal corporation, as the case may be, for its expenses incurred by reason of the person's confinement.</p> <p>(D) Notwithstanding any contrary provision in this section or section 2929.18, 2929.28, or 2929.37 of the Revised Code, the appropriate board of county commissioners and legislative authorities may include in their agreement entered into under division (A) of this section a policy that complies with section 2929.38 of the Revised Code and that requires any person who is not indigent and who is confined in the county, city, district, or joint city and county workhouse under this section to pay a reception fee, a fee for any medical treatment or service requested by and provided to that person, or the fee for a random drug test assessed under division (E) of section 341.26 of the Revised Code.</p> <p>(E) If a person who has been convicted of or pleaded guilty to an offense is incarcerated in the workhouse as provided in division (A) of this section, at the time of reception and at other times the person in charge of the operation of the workhouse determines to be appropriate, the person in charge of the operation of the workhouse may cause the convicted offender to be examined and tested for tuberculosis, HIV infection, hepatitis, including but not limited to hepatitis A, B, and C, and other contagious diseases. The person in charge of the operation of the workhouse may cause a convicted offender in the workhouse who refuses to be tested or treated for tuberculosis, HIV infection, hepatitis, including but not limited to hepatitis A, B, and C, or another contagious disease to be tested and treated involuntarily.</p>
§ 341.34	<p>Establishing minimum security jails.</p> <p>E) If a person who has been convicted of or pleaded guilty to an offense is sentenced to a term of imprisonment or a residential sanction in a minimum security jail as described in division (B)(1)(a) or (B)(2)(a) of this section, or if a person is an inmate transferred to a minimum security jail by order of a judge of the sentencing court as described in division (B)(1)(b) or (2)(b) of this section, at the time of reception and at other times the person in charge of the operation of the jail determines to be appropriate, the sheriff or other person in charge of the operation of the jail may cause the convicted offender to be examined and tested for tuberculosis, HIV infection, hepatitis, including but not limited to hepatitis A, B, and C, and other contagious diseases. The person in charge of the operation of the jail may cause a convicted offender in the jail who refuses to be tested or treated for tuberculosis, HIV infection, hepatitis, including but not limited to hepatitis A, B, and C, or another contagious disease to be tested and treated involuntarily.</p>

Title [7] VII Municipal Corporations

OH Title VII Code §	Code Language
§ 753.02	<p>Municipal liability for sustaining inmates in prison or station house; reimbursement by inmate; drug tests; testing and treatment for certain diseases</p> <p>(A) The legislative authority of a municipal corporation shall provide by ordinance for sustaining all persons sentenced to or confined in a prison or station house at the expense of the municipal corporation, and in counties where prisons or station houses are in quarters leased from the board of county commissioners, may contract with the board for the care and maintenance of those persons by the sheriff or other person charged with the care and maintenance of county prisoners. On the presentation of bills for food, sustenance, and necessary supplies, to the proper officer, certified by the person whom the legislative authority designates, the officer shall audit the bills under the rules prescribed by the legislative authority, and draw the officer's order on the treasurer of the municipal corporation in favor of the person presenting the bill.</p> <p>(B) Pursuant to section 2929.37 of the Revised Code, the legislative authority of the municipal corporation may require a person who was convicted of an offense and who is confined in a prison or station house as provided in division (A) of this section, or a person who was convicted of an offense and who is confined in the county jail as provided in section 1905.35 of the Revised Code, to reimburse the municipal corporation for its expenses incurred by reason of the person's confinement.</p> <p>(C) Notwithstanding any contrary provision in this section or section 2929.18, 2929.28, or 2929.37 of the Revised Code, the legislative authority of the municipal corporation may establish a policy that complies with section 2929.38 of the Revised Code and that requires any person who is not indigent and who is confined in a prison or station house to pay a reception fee, a fee for any medical treatment or service requested by and provided to that person, or the fee for a random drug test assessed under division (E) of section 753.33 of the Revised Code.</p> <p>(D) If a person who has been convicted of or pleaded guilty to an offense is sentenced to a term of imprisonment in a prison or station house as described in division (A) of this section, or if a person who has been arrested for an offense, and who has been denied bail or has had bail set and has not been released on bail is confined in a prison or station house as described in division (A) of this section pending trial, at the time of reception and at other times the person in charge of the operation of the prison or station house determines to be appropriate, the person in charge of the operation of the prison or station house may cause the convicted or accused offender to be examined and tested for tuberculosis, HIV infection, hepatitis, including, but not limited to, hepatitis A, B, and C, and other contagious diseases. The person in charge of the operation of the prison or station house may cause a convicted or accused offender in the prison or station house who refuses to be tested or treated for</p>

OH Title VII Code §	Code Language
	tuberculosis, HIV infection, hepatitis, including, but not limited to, hepatitis A, B, and C, or another contagious disease to be tested and treated involuntarily.
§ 753.04	<p>Commitment to workhouse; drug tests; testing and treatment for certain diseases</p> <p>(A) When a person over sixteen years of age is convicted of an offense under the law of this state or an ordinance of a municipal corporation, and the tribunal before which the conviction is had is authorized by law to commit the offender to the county jail or municipal corporation prison, the court, mayor, or judge of the county court, as the case may be, may sentence the offender to a workhouse.</p> <p>When a commitment is made from a municipal corporation or township in the county, other than in a municipal corporation having a workhouse, the legislative authority of the municipal corporation or the board of township trustees shall transmit with the mittimus a sum of money equal to not less than seventy cents per day for the time of the commitment, to be placed in the hands of the superintendent of a workhouse for the care and maintenance of the prisoner.</p> <p>(B) Pursuant to section 2929.37 of the Revised Code, the legislative authority of the municipal corporation or the board of township trustees may require a person who is convicted of an offense and who is confined in a workhouse as provided in division (A) of this section, to reimburse the municipal corporation or the township, as the case may be, for its expenses incurred by reason of the person's confinement.</p> <p>(C) Notwithstanding any contrary provision in this section or section 2929.18, 2929.28, or 2929.37 of the Revised Code, the legislative authority of the municipal corporation or board of township trustees may establish a policy that complies with section 2929.38 of the Revised Code and that requires any person who is not indigent and who is confined in the workhouse under division (A) of this section to pay a reception fee, a fee for any medical treatment or service requested by and provided to that person, or the fee for a random drug test assessed under division (E) of section 753.33 of the Revised Code.</p> <p>(D) If a person who has been convicted of or pleaded guilty to an offense is incarcerated in a workhouse or if a person who has been arrested for an offense, and who has not been denied bail or has had bail set and has not been released on bail is confined in a workhouse pending trial, at the time of reception and at other times the person in charge of the operation of the workhouse determines to be appropriate, the person in charge of the operation of the workhouse may cause the convicted or accused offender to be examined and tested for tuberculosis, HIV infection, hepatitis, including, but not limited to, hepatitis A, B, and C, and other contagious diseases. The person in charge of the operation of the workhouse may cause a convicted or accused offender in the workhouse who refuses to be</p>

OH Title VII Code §	Code Language
	tested or treated for tuberculosis, HIV infection, hepatitis, including, but not limited to, hepatitis A, B, and C, or another contagious disease to be tested and treated involuntarily.
§ 753.16	<p>Agreement to receive prisoners from another county or state prisoners; reimbursement policy; testing and treatment for certain diseases</p> <p>(A) Any city or district having a workhouse may receive as inmates of the workhouse persons sentenced or committed to it from counties other than the one in which the workhouse is situated, upon the terms and during the length of time agreed upon by the boards of county commissioners of those counties, or by the legislative authority of a municipal corporation in those counties and the legislative authority of the city, or the board of the district workhouse, or other authority having the management and control of the workhouse. Prisoners so received shall in all respects be and remain under the control of that authority, and shall be subject to the rules and discipline of the workhouse to which the other prisoners detained in the workhouse are subject.</p> <p>(B) Prior to the acceptance for housing into a jail or workhouse of persons who are designated by the department of rehabilitation and correction, who plead guilty to or are convicted of a felony of the fourth or fifth degree, and who satisfy the other requirements listed in section 5120.161 [5120.16.1] of the Revised Code, the legislative authority of a municipal corporation having a jail or workhouse, or the joint board managing and controlling a workhouse for the joint use of a municipal corporation and a county shall enter into an agreement with the department of rehabilitation and correction under section 5120.161 [5120.16.1] of the Revised Code for the housing in the jail or workhouse of persons who are designated by the department, who plead guilty to or are convicted of a felony of the fourth or fifth degree, and who satisfy the other requirements listed in that section, in exchange for a per diem fee per person. Persons incarcerated in the jail or workhouse pursuant to an agreement of that nature shall be subject to supervision and control in the manner described in section 5120.161 [5120.16.1] of the Revised Code. This division does not affect the authority of a court to directly sentence a person who is convicted of or pleads guilty to a felony to the jail or workhouse in accordance with section 2929.16 of the Revised Code.</p> <p>(C) Pursuant to section 2929.37 of the Revised Code, the board of county commissioners, the legislative authority of the municipal corporation, or the board or other managing authority of the district workhouse may require a person who was convicted of an offense and who is confined in the workhouse as provided in division (A) of this section, to reimburse the county, municipal corporation, or district, as the case may be, for its expenses incurred by reason of the person's confinement.</p> <p>(D) Notwithstanding any contrary provision in this section or section 2929.18, 2929.28, or 2929.37 of the Revised Code, the board of county</p>

OH Title VII Code §	Code Language
	<p>commissioners, the legislative authority of a municipal corporation, or the board or other managing authority of the district workhouse may establish a policy that complies with section 2929.38 of the Revised Code and that requires any person who is not indigent and who is confined in the jail or workhouse under division (A) or (B) of this section to pay a reception fee, a fee for any medical treatment or service requested by and provided to that person, or the fee for a random drug test assessed under division (E) of section 753.33 of the Revised Code.</p> <p>(E) If a person who has been convicted of or pleaded guilty to an offense is confined in the workhouse as provided in division (A) of this section or is incarcerated in the workhouse in the manner described in division (B) of this section, or if a person who has been arrested for an offense, and who has been denied bail or has had bail set and has not been released on bail is confined in the workhouse pending trial, at the time of reception and at other times the person in charge of the operation of the workhouse determines to be appropriate, the person in charge of the operation of the workhouse may cause the convicted or accused offender to be examined and tested for tuberculosis, HIV infection, hepatitis, including but not limited to hepatitis A, B, and C, and other contagious diseases. The person in charge of the operation of the workhouse may cause a convicted or accused offender in the workhouse who refuses to be tested or treated for tuberculosis, HIV infection, hepatitis, including but not limited to hepatitis A, B, and C, or another contagious disease to be tested and treated involuntarily.</p>
§ 753.21	<p>Minimum security jails.</p> <p>(E) If a person who has been convicted of or pleaded guilty to an offense is sentenced to a term of imprisonment or a residential sanction in a minimum security jail as described in division (B)(1)(a) or (B)(2)(a) of this section, or if a person is an inmate transferred to a minimum security jail by order of a judge of the sentencing court as described in division (B)(1)(b) or (2)(b) of this section, at the time of reception and at other times the person in charge of the operation of the jail determines to be appropriate, the person in charge of the operation of the jail may cause the convicted offender to be examined and tested for tuberculosis, HIV infection, hepatitis, including but not limited to hepatitis A, B, and C, and other contagious diseases. The person in charge of the operation of the jail may cause a convicted offender in the jail who refuses to be tested or treated for tuberculosis, HIV infection, hepatitis, including but not limited to hepatitis A, B, and C, or another contagious disease to be tested and treated involuntarily.</p>

Title [23] XXIII Courts – Common Pleas

OH Title XXIII Code §	Code Language
§ 2301.56	<p>State financial assistance; reimbursement by prisoner; testing and treatment for certain diseases</p> <p>(A) A judicial corrections board that proposes or establishes one or more community-based correctional facilities and programs or district community-based correctional facilities and programs may apply to the division of parole and community services for state financial assistance for the cost of renovation, maintenance, and operation of any of the facilities and programs. If the judicial corrections board has proposed or established more than one facility and program and if it desires state financial assistance for more than one of the facilities and programs, the board shall submit a separate application for each facility and program for which it desires the financial assistance.</p> <p>An application for state financial assistance under this section may be made when the judicial corrections board submits for the approval of the section its proposal for the establishment of the facility and program in question to the division of parole and community services under division (B) of section 2301.51 of the Revised Code, or at any time after the section has approved the proposal. All applications for state financial assistance for proposed or approved facilities and programs shall be made on forms that are prescribed and furnished by the department of rehabilitation and correction, and in accordance with section 5120.112 [5120.11.2] of the Revised Code.</p> <p>The judicial corrections board may submit a request for funding of some or all of its community-based correctional facilities and programs or district community-based correctional facilities and programs to the board of county commissioners of the county, if the judicial corrections board serves a community-based correctional facility and program, or to the boards of county commissioners of all of the member counties, if the judicial corrections board serves a district community-based correctional facility and program. The board or boards may appropriate, but are not required to appropriate, a sum of money for funding all aspects of each facility and program as outlined in sections 2301.51 to 2301.56 of the Revised Code. The judicial corrections board has no recourse against a board or boards of county commissioners, either under Chapter 2731. of the Revised Code, under its contempt power, or under any other authority, if the board or boards of county commissioners do not appropriate money for funding any facility or program or if they appropriate money for funding a facility and program in an amount less than the total amount of the submitted request for funding.</p> <p>(B) Pursuant to section 2929.37 of the Revised Code, a board of county commissioners may require a person who was convicted of an offense and who is confined in a community-based correctional facility or district community-based correctional facility as provided in sections 2301.51 to 2301.56 of the Revised Code, to reimburse the county for its expenses</p>

OH Title XXIII Code §	Code Language
	<p>incurred by reason of the person's confinement.</p> <p>(C) Notwithstanding any contrary provision in this section or section 2929.18, 2929.28, or 2929.37 of the Revised Code, the judicial corrections board may establish a policy that complies with section 2929.38 of the Revised Code and that requires any person who is not indigent and who is confined in the community-based correctional facility or district community-based correctional facility to pay a reception fee or a fee for any medical treatment or service requested by and provided to that person.</p> <p>(D) If a person who has been convicted of or pleaded guilty to an offense is confined in a community-based correctional facility or district community-based correctional facility, at the time of reception and at other times the person in charge of the operation of the facility determines to be appropriate, the person in charge of the operation of the facility may cause the convicted offender to be examined and tested for tuberculosis, HIV infection, hepatitis, including but not limited to hepatitis A, B, and C, and other contagious diseases. The person in charge of the operation of the facility may cause a convicted offender in the facility who refuses to be tested or treated for tuberculosis, HIV infection, hepatitis, including but not limited to hepatitis A, B, and C, or another contagious disease to be tested and treated involuntarily.</p> <p>(E) (1) Community-based correctional facilities and programs and district community-based correctional facilities and programs are public offices under section 117.01 of the Revised Code and are subject to audit under section 117.10 of the Revised Code. The audits of the facilities and programs shall include financial audits and, in addition, in the circumstances specified in this division, performance audits by the auditor of state. If a private or nonprofit entity performs the day-to-day operation of any community-based correctional facility and program or district community-based correctional facility and program, the private or nonprofit entity also is subject to financial audits under section 117.10 of the Revised Code, and, in addition, in the circumstances specified in this division, to performance audits by the auditor of state. The auditor of state shall conduct the performance audits of a facility and program and of an entity required under section 117.10 of the Revised Code and this division and, notwithstanding the time period for audits specified in section 117.11 of the Revised Code, shall conduct the financial audits of a facility and program and of an entity required under section 117.10 of the Revised Code and this division, in accordance with the following criteria:</p> <p>(a) For each facility and program and each entity, the auditor of state shall conduct the initial financial audit within two years after the effective date of this amendment or, if the facility and program in question is established on or after the effective date of this amendment, within two years after the date on which it is established.</p> <p>(b) After the initial financial audit described in division (E)(1)(a) of this section, for each facility and program and each entity, the auditor of</p>

OH Title XXIII Code §	Code Language
	<p>state shall conduct the financial audits of the facility and program or the entity at least once every two fiscal years.</p> <p>(c) At any time after the effective date of this amendment regarding a facility and program or regarding an entity that performs the day-to-day operation of a facility and program, the department of rehabilitation and correction or the judicial corrections board that established the facility and program may request, or the auditor of state on its own initiative may undertake, a performance audit of the facility and program or the entity. Upon the receipt of the request, or upon the auditor of state's own initiative as described in this division, the auditor of state shall conduct a performance audit of the facility and program or the entity.</p> <p>(2) The department of rehabilitation and correction shall prepare and provide to the auditor of state quarterly financial reports for each community-based correctional facility and program, for each district community-based correctional facility and program, and, to the extent that information is available, for each private or nonprofit entity that performs the day-to-day operation of any community-based correctional facility and program or district community-based correctional facility and program. Each report shall cover a three-month period and shall be provided to the auditor of state not later than fifteen days after the end of the period covered by the report.</p>
2301.57	<p>Health insurance claims of inmates - medical tests.</p> <p>(E) If a person who has been convicted of or pleaded guilty to an offense is confined in a community-based correctional facility or district community-based correctional facility, the person in charge of the facility's operation may cause the offender, at the time of reception and at other times the person in charge of the operation of the facility determines to be appropriate, to be examined and tested for tuberculosis, HIV infection, hepatitis, including, but not limited to, hepatitis A, B, and C, and other contagious diseases. The person in charge of the facility's operation may cause an offender in the facility who refuses to be tested or treated for tuberculosis, HIV infection, hepatitis, including, but not limited to, hepatitis A, B, and C, or another contagious disease to be tested and treated involuntarily.</p>

Title [29] XXIX Crimes – Procedure

OH Title XXIX Code §	Code Language
§ 2907.02	<p>Rape</p> <p>(A) (1) No person shall engage in sexual conduct with another who is not the spouse of the offender or who is the spouse of the offender but is living separate and apart from the offender, when any of the following applies:</p> <p>(a) For the purpose of preventing resistance, the offender substantially impairs the other person's judgment or control by administering any drug, intoxicant, or controlled substance to the other person surreptitiously or by force, threat of force, or deception.</p> <p>(b) The other person is less than thirteen years of age, whether or not the offender knows the age of the other person.</p> <p>(c) The other person's ability to resist or consent is substantially impaired because of a mental or physical condition or because of advanced age, and the offender knows or has reasonable cause to believe that the other person's ability to resist or consent is substantially impaired because of a mental or physical condition or because of advanced age.</p> <p>(2) No person shall engage in sexual conduct with another when the offender purposely compels the other person to submit by force or threat of force.</p> <p>(B) Whoever violates this section is guilty of rape, a felony of the first degree. If the offender under division (A)(1)(a) of this section substantially impairs the other person's judgment or control by administering any controlled substance described in section 3719.41 of the Revised Code to the other person surreptitiously or by force, threat of force, or deception, the prison term imposed upon the offender shall be one of the prison terms prescribed for a felony of the first degree in section 2929.14 of the Revised Code that is not less than five years. Except as otherwise provided in this division, notwithstanding sections 2929.11 to 2929.14 of the Revised Code, an offender under division (A)(1)(b) of this section shall be sentenced to a prison term or term of life imprisonment pursuant to section 2971.03 of the Revised Code. If an offender is convicted of or pleads guilty to a violation of division (A)(1)(b) of this section, if the offender was less than sixteen years of age at the time the offender committed the violation of that division, and if the offender during or immediately after the commission of the offense did not cause serious physical harm to the victim, the victim was ten years of age or older at the time of the commission of the violation, and the offender has not previously been convicted of or pleaded guilty to a violation of this section or a substantially similar existing or former law of this state, another state, or the United States, the court shall not sentence the offender to a prison term or term of life imprisonment pursuant to section 2971.03 of the Revised Code, and instead the court shall sentence the offender as otherwise provided in this division. If an offender under division (A)(1)(b) of this section previously has been convicted of or pleaded guilty to violating division (A)(1)(b) of this section or to violating an existing or former law of this state, another state, or the</p>

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	<p>United States that is substantially similar to division (A)(1)(b) of this section, if the offender during or immediately after the commission of the offense caused serious physical harm to the victim, or if the victim under division (A)(1)(b) of this section is less than ten years of age, in lieu of sentencing the offender to a prison term or term of life imprisonment pursuant to section 2971.03 of the Revised Code, the court may impose upon the offender a term of life without parole. If the court imposes a term of life without parole pursuant to this division, division (F) of section 2971.03 of the Revised Code applies, and the offender automatically is classified a sexual predator, as described in that division.</p> <p>(C) A victim need not prove physical resistance to the offender in prosecutions under this section.</p> <p>(D) Evidence of specific instances of the victim's sexual activity, opinion evidence of the victim's sexual activity, and reputation evidence of the victim's sexual activity shall not be admitted under this section unless it involves evidence of the origin of semen, pregnancy, or disease, or the victim's past sexual activity with the offender, and only to the extent that the court finds that the evidence is material to a fact at issue in the case and that its inflammatory or prejudicial nature does not outweigh its probative value.</p> <p>Evidence of specific instances of the defendant's sexual activity, opinion evidence of the defendant's sexual activity, and reputation evidence of the defendant's sexual activity shall not be admitted under this section unless it involves evidence of the origin of semen, pregnancy, or disease, the defendant's past sexual activity with the victim, or is admissible against the defendant under section 2945.59 of the Revised Code, and only to the extent that the court finds that the evidence is material to a fact at issue in the case and that its inflammatory or prejudicial nature does not outweigh its probative value.</p> <p>(E) Prior to taking testimony or receiving evidence of any sexual activity of the victim or the defendant in a proceeding under this section, the court shall resolve the admissibility of the proposed evidence in a hearing in chambers, which shall be held at or before preliminary hearing and not less than three days before trial, or for good cause shown during the trial.</p> <p>(F) Upon approval by the court, the victim may be represented by counsel in any hearing in chambers or other proceeding to resolve the admissibility of evidence. If the victim is indigent or otherwise is unable to obtain the services of counsel, the court, upon request, may appoint counsel to represent the victim without cost to the victim.</p> <p>(G) It is not a defense to a charge under division (A)(2) of this section that the offender and the victim were married or were cohabiting at the time of the commission of the offense.</p>
§ 2907.03	Sexual battery

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	<p>(A) No person shall engage in sexual conduct with another, not the spouse of the offender, when any of the following apply:</p> <p>(1) The offender knowingly coerces the other person to submit by any means that would prevent resistance by a person of ordinary resolution.</p> <p>(2) The offender knows that the other person's ability to appraise the nature of or control the other person's own conduct is substantially impaired.</p> <p>(3) The offender knows that the other person submits because the other person is unaware that the act is being committed.</p> <p>(4) The offender knows that the other person submits because the other person mistakenly identifies the offender as the other person's spouse.</p> <p>(5) The offender is the other person's natural or adoptive parent, or a stepparent, or guardian, custodian, or person in loco parentis of the other person.</p> <p>(6) The other person is in custody of law or a patient in a hospital or other institution, and the offender has supervisory or disciplinary authority over the other person.</p> <p>(7) The offender is a teacher, administrator, coach, or other person in authority employed by or serving in a school for which the state board of education prescribes minimum standards pursuant to division (D) of section 3301.07 of the Revised Code, the other person is enrolled in or attends that school, and the offender is not enrolled in and does not attend that school.</p> <p>(8) The other person is a minor, the offender is a teacher, administrator, coach, or other person in authority employed by or serving in an institution of higher education, and the other person is enrolled in or attends that institution.</p> <p>(9) The other person is a minor, and the offender is the other person's athletic or other type of coach, is the other person's instructor, is the leader of a scouting troop of which the other person is a member, or is a person with temporary or occasional disciplinary control over the other person.</p> <p>(10) The offender is a mental health professional, the other person is a mental health client or patient of the offender, and the offender induces the other person to submit by falsely representing to the other person that the sexual conduct is necessary for mental health treatment purposes.</p> <p>(11) The other person is confined in a detention facility, and the offender is an employee of that detention facility.</p> <p>(12) The other person is a minor, the offender is a cleric, and the other person is a member of, or attends, the church or congregation served by the cleric.</p> <p>(B) Whoever violates this section is guilty of sexual battery. Except as otherwise provided in this division, sexual battery is a felony of the third degree. If the other person is less than thirteen years of age, sexual battery is a felony of the second degree, and the court shall impose upon the offender a mandatory prison term equal to one of the prison terms</p>

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	<p>prescribed in section 2929.14 of the Revised Code for a felony of the second degree.</p> <p>(C) As used in this section:</p> <p>(1) "Cleric" has the same meaning as in section 2317.02 of the Revised Code.</p> <p>(2) "Detention facility" has the same meaning as in section 2921.01 of the Revised Code.</p> <p>(3) "Institution of higher education" means a state institution of higher education defined in section 3345.011 [3345.01.1] of the Revised Code, a private nonprofit college or university located in this state that possesses a certificate of authorization issued by the Ohio board of regents pursuant to Chapter 1713. of the Revised Code, or a school certified under Chapter 3332. of the Revised Code.</p>
§ 2907.04	<p>Unlawful sexual conduct with minor</p> <p>(A) No person who is eighteen years of age or older shall engage in sexual conduct with another, who is not the spouse of the offender, when the offender knows the other person is thirteen years of age or older but less than sixteen years of age, or the offender is reckless in that regard.</p> <p>(B) Whoever violates this section is guilty of unlawful sexual conduct with a minor.</p> <p>(1) Except as otherwise provided in divisions (B)(2), (3), and (4) of this section, unlawful sexual conduct with a minor is a felony of the fourth degree.</p> <p>(2) Except as otherwise provided in division (B)(4) of this section, if the offender is less than four years older than the other person, unlawful sexual conduct with a minor is a misdemeanor of the first degree.</p> <p>(3) Except as otherwise provided in division (B)(4) of this section, if the offender is ten or more years older than the other person, unlawful sexual conduct with a minor is a felony of the third degree.</p> <p>(4) If the offender previously has been convicted of or pleaded guilty to a violation of section 2907.02, 2907.03, or 2907.04 of the Revised Code or a violation of former section 2907.12 of the Revised Code, unlawful sexual conduct with a minor is a felony of the second degree.</p>
§ 2907.24	<p>Soliciting; after positive HIV test; driver's license suspension</p> <p>(A) No person shall solicit another to engage with such other person in sexual activity for hire.</p> <p>(B) No person, with knowledge that the person has tested positive as a carrier of a virus that causes acquired immunodeficiency syndrome, shall engage in conduct in violation of division (A) of this section.</p> <p>(C) (1) Whoever violates division (A) of this section is guilty of soliciting, a misdemeanor of the third degree.</p> <p>(2) Whoever violates division (B) of this section is guilty of engaging in</p>

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	<p>solicitation after a positive HIV test. If the offender commits the violation prior to July 1, 1996, engaging in solicitation after a positive HIV test is a felony of the second degree. If the offender commits the violation on or after July 1, 1996, engaging in solicitation after a positive HIV test is a felony of the third degree.</p> <p>(D) If a person is convicted of or pleads guilty to a violation of any provision of this section, an attempt to commit a violation of any provision of this section, or a violation of or an attempt to commit a violation of a municipal ordinance that is substantially equivalent to any provision of this section and if the person, in committing or attempting to commit the violation, was in, was on, or used a motor vehicle, the court, in addition to or independent of all other penalties imposed for the violation, shall impose upon the offender a class six suspension of the person's driver's license, commercial driver's license, temporary instruction permit, probationary license, or nonresident operating privilege from the range specified in division (A)(6) of section 4510.02 of the Revised Code.</p>
§ 2907.241	<p>Loitering to engage in solicitation; solicitation after positive HIV test</p> <p>(A) No person, with purpose to solicit another to engage in sexual activity for hire and while in or near a public place, shall do any of the following:</p> <ol style="list-style-type: none"> (1) Beckon to, stop, or attempt to stop another; (2) Engage or attempt to engage another in conversation; (3) Stop or attempt to stop the operator of a vehicle or approach a stationary vehicle; (4) If the offender is the operator of or a passenger in a vehicle, stop, attempt to stop, beckon to, attempt to beckon to, or entice another to approach or enter the vehicle of which the offender is the operator or in which the offender is the passenger; (5) Interfere with the free passage of another. <p>(B) No person, with knowledge that the person has tested positive as a carrier of a virus that causes acquired immunodeficiency syndrome, shall engage in conduct in violation of division (A) of this section.</p> <p>(C) As used in this section:</p> <ol style="list-style-type: none"> (1) "Vehicle" has the same meaning as in section 4501.01 of the Revised Code. (2) "Public place" means any of the following: <ol style="list-style-type: none"> (a) A street, road, highway, thoroughfare, bikeway, walkway, sidewalk, bridge, alley, alleyway, plaza, park, driveway, parking lot, or transportation facility; (b) A doorway or entrance way to a building that fronts on a place described in division (C)(2)(a) of this section; (c) A place not described in division (C)(2)(a) or (b) of this section that is open to the public. <p>(D) (1) Whoever violates division (A) of this section is guilty of loitering to</p>

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	<p>engage in solicitation, a misdemeanor of the third degree.</p> <p>(2) Whoever violates division (B) of this section is guilty of loitering to engage in solicitation after a positive HIV test. If the offender commits the violation prior to July 1, 1996, loitering to engage in solicitation after a positive HIV test is a felony of the fourth degree. If the offender commits the violation on or after July 1, 1996, loitering to engage in solicitation after a positive HIV test is a felony of the fifth degree.</p>
§ 2907.25	<p>Prostitution; after positive HIV test</p> <p>(A) No person shall engage in sexual activity for hire.</p> <p>(B) No person, with knowledge that the person has tested positive as a carrier of a virus that causes acquired immunodeficiency syndrome, shall engage in sexual activity for hire.</p> <p>(C) (1) Whoever violates division (A) of this section is guilty of prostitution, a misdemeanor of the third degree.</p> <p>(2) Whoever violates division (B) of this section is guilty of engaging in prostitution after a positive HIV test. If the offender commits the violation prior to July 1, 1996, engaging in prostitution after a positive HIV test is a felony of the second degree. If the offender commits the violation on or after July 1, 1996, engaging in prostitution after a positive HIV test is a felony of the third degree.</p>
§ 2907.27	<p>Testing of accused for venereal diseases and HIV</p> <p>(A) (1) If a person is charged with a violation of section 2907.02, 2907.03, 2907.04, 2907.24, 2907.241, or 2907.25 of the Revised Code or with a violation of a municipal ordinance that is substantially equivalent to any of those sections, the arresting authorities or a court, upon the request of the prosecutor in the case or upon the request of the victim, shall cause the accused to submit to one or more appropriate tests to determine if the accused is suffering from a venereal disease.</p> <p>(2) If the accused is found to be suffering from a venereal disease in an infectious stage, the accused shall be required to submit to medical treatment for that disease. The cost of the medical treatment shall be charged to and paid by the accused who undergoes the treatment. If the accused is indigent, the court shall order the accused to report to a facility operated by a city health district or a general health district for treatment. If the accused is convicted of or pleads guilty to the offense with which the accused is charged and is placed under a community control sanction, a condition of community control shall be that the offender submit to and faithfully follow a course of medical treatment for the venereal disease. If the offender does not seek the required medical treatment, the court may revoke the offender's community control and order the offender to undergo medical treatment during the period of the offender's incarceration and to pay the cost of that treatment.</p> <p>(B) (1) (a) If a person is charged with a violation of division (B) of section</p>

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	<p>2903.11 or of section 2907.02, 2907.03, 2907.04, 2907.05, 2907.12, 2907.24, 2907.241, or 2907.25 of the Revised Code or with a violation of a municipal ordinance that is substantially equivalent to that division or any of those sections, the court, upon the request of the prosecutor in the case, upon the request of the victim, or upon the request of any other person whom the court reasonably believes had contact with the accused in circumstances related to the violation that could have resulted in the transmission to that person the human immunodeficiency virus, shall cause the accused to submit to one or more tests designated by the director of health under section 3701.241 of the Revised Code to determine if the accused is infected with HIV. The court, upon the request of the prosecutor in the case, upon the request of the victim with the agreement of the prosecutor, or upon the request of any other person with the agreement of the prosecutor, may cause an accused who is charged with a violation of any other section of the Revised Code or with a violation of any other municipal ordinance to submit to one or more tests so designated by the director of health if the circumstances of the violation indicate probable cause to believe that the accused, if the accused is infected with HIV, might have transmitted HIV to any of the following persons in committing the violation:</p> <ul style="list-style-type: none"> (i) In relation to a request made by the prosecuting attorney, to the victim or to any other person; (ii) In relation to a request made by the victim, to the victim making the request; (iii) In relation to a request made by any other person, to the person making the request. <p>(b) The results of a test performed under division (B) (1) (a) of this section shall be communicated in confidence to the court, and the court shall inform the accused of the result. The court shall inform the victim that the test was performed and that the victim has a right to receive the results on request. If the test was performed upon the request of a person other than the prosecutor in the case and other than the victim, the court shall inform the person who made the request that the test was performed and that the person has a right to receive the results upon request. Additionally, regardless of who made the request that was the basis of the test being performed, if the court reasonably believes that, in circumstances related to the violation, a person other than the victim had contact with the accused that could have resulted in the transmission of HIV to that person, the court may inform that person that the test was performed and that the person has a right to receive the results of the test on request. If the accused tests positive for HIV, the test results shall be reported to the department of health in accordance with section 3701.24 of the Revised Code and to the sheriff, head of the state correctional institution, or other person in charge of any jail or prison in which the accused is incarcerated. If the accused tests positive for HIV and the accused was charged with, and was convicted of or pleaded guilty to, a violation of section 2907.24, 2907.241, or 2907.25 of the Revised Code or a violation of a municipal ordinance that is substantially equivalent to any of those sections, the test results also shall be reported to the law enforcement agency that arrested the accused, and the law</p>

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	<p>enforcement agency may use the test results as the basis for any future charge of a violation of division (B) of any of those sections or a violation of a municipal ordinance that is substantially equivalent to division (B) of any of those sections. No other disclosure of the test results or the fact that a test was performed shall be made, other than as evidence in a grand jury proceeding or as evidence in a judicial proceeding in accordance with the Rules of Evidence. If the test result is negative, and the charge has not been dismissed or if the accused has been convicted of the charge or a different offense arising out of the same circumstances as the offense charged, the court shall order that the test be repeated not earlier than three months nor later than six months after the original test.</p> <p>(2) If an accused who is free on bond refuses to submit to a test ordered by the court pursuant to division (B)(1) of this section, the court may order that the accused's bond be revoked and that the accused be incarcerated until the test is performed. If an accused who is incarcerated refuses to submit to a test ordered by the court pursuant to division (B)(1) of this section, the court shall order the person in charge of the jail or prison in which the accused is incarcerated to take any action necessary to facilitate the performance of the test, including the forcible restraint of the accused for the purpose of drawing blood to be used in the test.</p> <p>(3) A state agency, a political subdivision of the state, or an employee of a state agency or of a political subdivision of the state is immune from liability in a civil action to recover damages for injury, death, or loss to person or property allegedly caused by any act or omission in connection with the performance of the duties required under division (B)(2) of this section unless the acts or omissions are with malicious purpose, in bad faith, or in a wanton or reckless manner.</p> <p>(C) As used in this section:</p> <p>(1) "Community control sanction" has the same meaning as in section 2929.01 of the Revised Code.</p> <p>(2) "HIV" means the human immunodeficiency virus.</p>
§ 2921.38	<p>Harassment by inmate.</p> <p>(C) No person , with knowledge that the person is a carrier of the virus that causes acquired immunodeficiency syndrome, is a carrier of a hepatitis virus, or is infected with tuberculosis and with intent to harass, annoy, threaten, or alarm another person, shall cause or attempt to cause the other person to come into contact with blood, semen, urine, feces, or another bodily substance by throwing the bodily substance at the other person, by expelling the bodily substance upon the other person, or in any other manner.</p> <p>(E)(1) The court, on request of the prosecutor, or the law enforcement authority responsible for the investigation of the violation, shall cause a person who allegedly has committed a violation of this section to submit to one or more appropriate tests to determine if the person is a carrier of the virus that causes acquired immunodeficiency syndrome, is a carrier of</p>

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	a hepatitis virus, or is infected with tuberculosis.
§ 2929.16	<p>Community residential sanctions - felony.</p> <p>(A) Except as provided in this division, the court imposing a sentence for a felony upon an offender who is not required to serve a mandatory prison term may impose any community residential sanction or combination of community residential sanctions under this section. The court imposing a sentence for a fourth degree felony OVI offense under division (G)(1) or (2) of section 2929.13 of the Revised Code or for a third degree felony OVI offense under division (G)(2) of that section may impose upon the offender, in addition to the mandatory term of local incarceration or mandatory prison term imposed under the applicable division, a community residential sanction or combination of community residential sanctions under this section, and the offender shall serve or satisfy the sanction or combination of sanctions after the offender has served the mandatory term of local incarceration or mandatory prison term required for the offense. Community residential sanctions include, but are not limited to, the following:</p> <p>(E) If a person who has been convicted of or pleaded guilty to a felony is sentenced to a community residential sanction as described in division (A) of this section, at the time of reception and at other times the person in charge of the operation of the community-based correctional facility, jail, halfway house, alternative residential facility, or other place at which the offender will serve the residential sanction determines to be appropriate, the person in charge of the operation of the community-based correctional facility, jail, halfway house, alternative residential facility, or other place may cause the convicted offender to be examined and tested for tuberculosis, HIV infection, hepatitis, including but not limited to hepatitis A, B, and C, and other contagious diseases. The person in charge of the operation of the community-based correctional facility, jail, halfway house, alternative residential facility, or other place at which the offender will serve the residential sanction may cause a convicted offender in the community-based correctional facility, jail, halfway house, alternative residential facility, or other place who refuses to be tested or treated for tuberculosis, HIV infection, hepatitis, including but not limited to hepatitis A, B, and C, or another contagious disease to be tested and treated involuntarily.</p>
§ 2929.26	<p>Community residential sanctions - misdemeanor.</p> <p>(E) If a court sentences a person who has been convicted of or pleaded guilty to a misdemeanor to a community residential sanction as described in division (A) of this section, at the time of reception and at other times the person in charge of the operation of the halfway house, alternative residential facility, or other place at which the offender will serve the residential sanction determines to be appropriate, the person in charge of the operation of the halfway house, alternative residential facility, or other place may cause the convicted offender to be examined and tested</p>

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	for tuberculosis, HIV infection, hepatitis, including, but not limited to, hepatitis A, B, and C, and other contagious diseases. The person in charge of the operation of the halfway house, alternative residential facility, or other place at which the offender will serve the residential sanction may cause a convicted offender in the halfway house, alternative residential facility, or other place who refuses to be tested or treated for tuberculosis, HIV infection, hepatitis, including, but not limited to, hepatitis A, B, and C, or another contagious disease to be tested and treated involuntarily.
§ 2947.19	<p>Confinement of county prisoners in city workhouse; reimbursement by prisoner; testing and treatment for certain diseases</p> <p>(A) In a county that has no workhouse but in which is located a city that has a workhouse maintained by the city, the board of county commissioners may agree with the proper authorities of that city upon terms under which persons convicted of misdemeanors shall be maintained in the city workhouse at the expense of the county. In the case of persons committed to the city workhouse for the violation of a law of this state, whether the commitment is from the court of common pleas, magistrate's court, or other court, the cost of maintaining those persons committed shall be paid out of the general fund of the county, on the allowance of the board of county commissioners, provided that all persons committed to the city workhouse for the violation of ordinances of the city shall be maintained in that workhouse at the sole cost of the city.</p> <p>(B) Pursuant to section 2929.37 of the Revised Code, the board of county commissioners or the legislative authority of the city may require a person who was convicted of an offense and who is confined in the city workhouse as provided in division (A) of this section to reimburse the county or the city, as the case may be, for its expenses incurred by reason of the person's confinement. If a person is convicted of or pleads guilty to a felony and the court imposes a sanction that requires the offender to serve a term in a city workhouse, sections 341.23, 753.02, 753.04, and 753.16 of the Revised Code govern the determination of whether the court may impose a sanction under section 2929.18 of the Revised Code that requires the offender to reimburse the expenses of confinement.</p> <p>(C) Notwithstanding any contrary provision in this section or section 2929.18, 2929.28, or 2929.37 of the Revised Code, the board of county commissioners or the legislative authority of the city may establish a policy that complies with section 2929.38 of the Revised Code and that requires any person who is not indigent and who is confined in the city workhouse to pay a reception fee or a fee for any medical treatment or service requested by and provided to that person.</p> <p>(D) If a person who has been convicted of or pleaded guilty to an offense is confined in the workhouse as provided in division (A) of this section, at</p>

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	the time of reception and at other times the person in charge of the operation of the workhouse determines to be appropriate, the person in charge of the operation of the workhouse may cause the convicted offender to be examined and tested for tuberculosis, HIV infection, hepatitis, including but not limited to hepatitis A, B, and C, and other contagious diseases. The person in charge of the operation of the workhouse may cause a convicted offender in the workhouse who refuses to be tested or treated for tuberculosis, HIV infection, hepatitis, including but not limited to hepatitis A, B, and C, or another contagious disease to be tested and treated involuntarily.

Title [37] XXXVII Health – Safety – Morals

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§ 3701.24	<p>Report as to contagious or infectious diseases; AIDS and HIV</p> <p>(A) As used in this section and sections 3701.241 to 3701.249 [3701.24.1 to 3701.24.9] of the Revised Code:</p> <p>(1) "AIDS" means the illness designated as acquired immunodeficiency syndrome.</p> <p>(2) "HIV" means the human immunodeficiency virus identified as the causative agent of AIDS.</p> <p>(3) "AIDS-related condition" means symptoms of illness related to HIV infection, including AIDS-related complex, that are confirmed by a positive HIV test.</p> <p>(4) "HIV test" means any test for the antibody or antigen to HIV that has been approved by the director of health under division (B) of section 3701.241 [3701.24.1] of the Revised Code.</p> <p>(5) "Health care facility" has the same meaning as in section 1751.01 of the Revised Code.</p> <p>(6) "Director" means the director of health or any employee of the department of health acting on the director's behalf.</p> <p>(7) "Physician" means a person who holds a current, valid certificate issued under Chapter 4731. of the Revised Code authorizing the practice of medicine or surgery and osteopathic medicine and surgery.</p> <p>(8) "Nurse" means a registered nurse or licensed practical nurse who holds a license or certificate issued under Chapter 4723. of the Revised Code.</p> <p>(9) "Anonymous test" means an HIV test administered so that the individual to be tested can give informed consent to the test and receive the results by means of a code system that does not link the identity of the individual tested to the request for the test or the test results.</p> <p>(10) "Confidential test" means an HIV test administered so that the identity of the individual tested is linked to the test but is held in confidence to the extent provided by sections 3701.24 to 3701.248 [3701.24.8] of the Revised Code.</p> <p>(11) "Health care provider" means an individual who provides diagnostic, evaluative, or treatment services. Pursuant to Chapter 119. of the Revised Code, the public health council may adopt rules further defining the scope of the term "health care provider."</p> <p>(12) "Significant exposure to body fluids" means a percutaneous or mucous membrane exposure of an individual to the blood, semen, vaginal secretions, or spinal, synovial, pleural, peritoneal, pericardial, or amniotic fluid of another individual.</p> <p>(13) "Emergency medical services worker" means all of the following:</p> <ul style="list-style-type: none"> (a) A peace officer; (b) An employee of an emergency medical service organization as defined in section 4765.01 of the Revised Code; (c) A firefighter employed by a political subdivision; (d) A volunteer firefighter, emergency operator, or rescue operator; (e) An employee of a private organization that renders rescue services, emergency medical services, or emergency medical

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	<p>transportation to accident victims and persons suffering serious illness or injury.</p> <p>(14) "Peace officer" has the same meaning as in division (A) of section 109.71 of the Revised Code, except that it also includes a sheriff and the superintendent and troopers of the state highway patrol.</p> <p>(B) Persons designated by rule adopted by the public health council under section 3701.241 [3701.24.1] of the Revised Code shall report promptly every case of AIDS, every AIDS-related condition, and every confirmed positive HIV test to the department of health on forms and in a manner prescribed by the director. In each county the director shall designate the health commissioner of a health district in the county to receive the reports.</p> <p>(C) No person shall fail to comply with the reporting requirements established under division (B) of this section.</p> <p>(D) Information reported under this section that identifies an individual is confidential and may be released only with the written consent of the individual except as the director determines necessary to ensure the accuracy of the information, as necessary to provide treatment to the individual, as ordered by a court pursuant to section 3701.243 or 3701.247 [3701.24.3 or 3701.24.7] of the Revised Code, or pursuant to a search warrant or a subpoena issued by or at the request of a grand jury, prosecuting attorney, city director of law or similar chief legal officer of a municipal corporation, or village solicitor, in connection with a criminal investigation or prosecution. Information that does not identify an individual may be released in summary, statistical, or aggregate form.</p>
§ 3701.241	<p>AIDS and HIV related duties of director of health</p> <p>(A) The director of health shall develop and administer the following:</p> <ol style="list-style-type: none"> (1) A surveillance system to determine the number of cases of AIDS and the HIV infection rate in various population groups; (2) Counseling and testing programs for groups determined by the director to be at risk of HIV infection, including procedures for both confidential and anonymous tests, counseling training programs for health care providers, and development of counseling guidelines; (3) A confidential partner notification system to alert and counsel sexual contacts of individuals with HIV infection; (4) Risk reduction and education programs for groups determined by the director to be at risk of HIV infection, and, in consultation with a wide range of community leaders, education programs for the public; (5) Pilot programs for the long-term care of individuals with AIDS or AIDS-related condition, including care in nursing homes and in alternative settings; (6) Programs to expand regional outpatient treatment of individuals with AIDS or AIDS-related condition; (7) A program to assist communities, including communities of less

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	<p>than one hundred thousand population, in establishing AIDS task forces and support groups for individuals with AIDS, AIDS-related condition, and HIV infection. The program may include the award of grants if they are matched by local funds.</p> <p>Information obtained or maintained under the partner notification system is not a public record under section 149.43 of the Revised Code and may be released only in accordance with division (C) of section 3701.243 [3701.24.3] of the Revised Code.</p> <p>(B) The director shall:</p> <ol style="list-style-type: none"> (1) Approve a test or tests to be used to determine whether an individual has HIV infection, define a confirmed positive test result, and develop guidelines for interpreting test results; (2) Establish sites for confidential and anonymous HIV tests, and prepare a list of sites where an individual may obtain an anonymous test; (3) Prepare a list of counseling services; (4) Make available a copy of the list of anonymous testing sites or a copy of the list of counseling services to anyone who requests it. <p>(C) The director of health shall require the director or administrator of each site where anonymous or confidential HIV tests are given to submit a report every three months evaluating from an epidemiologic perspective the effectiveness of the HIV testing program at that site. Not later than January 31, 1991, and each year thereafter, the director of health shall make a report evaluating the anonymous and confidential testing programs throughout the state with regard to their effectiveness as epidemiologic programs. The report shall be submitted to the speaker of the house of representatives and the president of the senate and shall be made available to the public.</p> <p>The public health council shall adopt rules pursuant to Chapter 119. of the Revised Code for the implementation of the requirements of division (B)(1) of this section and division (D) of section 3701.24 of the Revised Code.</p> <p>(D) The director of health shall administer funds received under Title XXVI of the "Public Health Services Act," 104 Stat. 576 (1990), 42 U.S.C.A. 2601, as amended, for programs to improve the quality and availability of care for individuals with AIDS, AIDS-related condition, and HIV infection. In administering these funds, the director may enter into contracts with any person or entity for the purpose of administering the programs, including contracts with the department of job and family services for establishment of a program of reimbursement of drugs used for treatment and care of such individuals. The director of health may adopt rules in accordance with Chapter 119. of the Revised Code and issue orders as necessary for administration of the funds. If the department of job and family services enters into a contract under this division, the director of job and family services may adopt rules in</p>

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	accordance with Chapter 119. of the Revised Code as necessary for carrying out the department's duties under the contract.
§ 3701.242	<p>Informed consent to HIV test; counseling; anonymous testing</p> <p>(A) An HIV test may be performed by or on the order of a health care provider who, in the exercise in the providers professional judgment, determines the test to be necessary for diagnosis and treatment to the individual to be tested, if the individual or the individual's parent or guardian has given consent to the provider for medical or other health care treatment. The health care provider shall inform the individual of the individual's right under division (D) of this section to an anonymous test.</p> <p>(B) A minor may consent to be given an HIV test. The consent is not subject to disaffirmance because of minority. The parents or guardian of a minor giving consent under this division are not liable for payment and shall not be charged for an HIV test given to the minor without the consent of a parent or the guardian.</p> <p>(C) The health care provider ordering an HIV test shall provide post-test counseling for an individual receives HIV-positive test result. The public health council may adopt rules, pursuant to recommendations from the director of health and in accordance with Chapter 119 of the Revised Code, specifying the information to be provided in post-test counseling.</p> <p>(D) An individual shall have the right to an anonymous test. A health care facility or health care provider that does not provide anonymous testing shall refer an individual requesting an anonymous test to a site where it is available.</p> <p>(E) Divisions (B) to (D) of this section do not apply to the performance of an HIV test in any of the following circumstances:</p> <p>(1) When the test is performed in a medical emergency by a nurse or physician and the test results are medically necessary to avoid or minimize an immediate danger to the health or safety of the individual to be tested or another individual, except that post-test counseling shall be given to the individual if the individual receives an HIV-positive test result;</p> <p>(2) When the test is performed for the purpose of research if the researcher does not know and cannot determine the identity of the individual tested;</p> <p>(3) When the test is performed by a person who procures, processes, distributes, or uses a human body part from a deceased person donated for a purpose specified in Chapter 2108. of the Revised Code, if the test is medically necessary to ensure that the body part is acceptable for its intended purpose;</p> <p>(4) When the test is performed on a person incarcerated in a correctional institution under the control of the department of rehabilitation and correction if the head of the institution has</p>

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	<p>determined, based on good cause, that a test is necessary;</p> <p>(5) When the test is performed in accordance with section 2907.27 of the Revised Code;</p> <p>(6) When the test is performed on an individual after the infection control committee of a health care facility, or other body of a health care facility performing a similar function determines that a health care provider, emergency medical services worker, or peace officer, while rendering health or emergency care to an individual, has sustained a significant exposure to the body fluids of that individual, and the individual has refused to give consent for testing.</p>
§ 3701.243	<p>Disclosure of HIV test results or diagnosis</p> <p>(A) Except as provided in this section or section 3701.248 [3701.24.8] of the Revised Code, no person or agency of state or local government that acquires the information while providing any health care service or while in the employ of a health care facility or health care provider shall disclose or compel another to disclose any of the following:</p> <p>(1) The identity of any individual on whom an HIV test is performed;</p> <p>(2) The results of an HIV test in a form that identifies the individual tested;</p> <p>(3) The identity of any individual diagnosed as having AIDS or an AIDS-related condition.</p> <p>(B) (1) Except as provided in divisions (B)(2), (C), (D), and (F) of this section, the results of an HIV test or the identity of an individual on whom an HIV test is performed or who is diagnosed as having AIDS or an AIDS-related condition may be disclosed only to the following:</p> <p>(a) The individual who was tested or the individual's legal guardian, and the individual's spouse or any sexual partner;</p> <p>(b) A person to whom disclosure is authorized by a written release, executed by the individual tested or by the individual's legal guardian and specifying to whom disclosure of the test results or diagnosis is authorized and the time period during which the release is to be effective;</p> <p>(c) The individual's physician;</p> <p>(d) The department of health or a health commissioner to which reports are made under section 3701.24 of the Revised Code;</p> <p>(e) A health care facility or provider that procures, processes, distributes, or uses a human body part from a deceased individual, donated for a purpose specified in Chapter 2108. of the Revised Code, and that needs medical information about the deceased individual to ensure that the body part is medically acceptable for its intended purpose;</p> <p>(f) Health care facility staff committees or accreditation or oversight review organizations conducting program monitoring, program evaluation, or service reviews;</p> <p>(g) A health care provider, emergency medical services worker, or peace officer who sustained a significant exposure to the body fluids of another individual, if that individual was tested pursuant to division (E)(6) of section 3701.242 [3701.24.2] of the Revised Code, except that</p>

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	<p>the identity of the individual tested shall not be revealed;</p> <p>(h) To law enforcement authorities pursuant to a search warrant or a subpoena issued by or at the request of a grand jury, a prosecuting attorney, a city director of law or similar chief legal officer of a municipal corporation, or a village solicitor, in connection with a criminal investigation or prosecution.</p> <p>(2) The results of an HIV test or a diagnosis of AIDS or an AIDS-related condition may be disclosed to a health care provider, or an authorized agent or employee of a health care facility or a health care provider, if the provider, agent, or employee has a medical need to know the information and is participating in the diagnosis, care, or treatment of the individual on whom the test was performed or who has been diagnosed as having AIDS or an AIDS-related condition.</p> <p>This division does not impose a standard of disclosure different from the standard for disclosure of all other specific information about a patient to health care providers and facilities. Disclosure may not be requested or made solely for the purpose of identifying an individual who has a positive HIV test result or has been diagnosed as having AIDS or an AIDS-related condition in order to refuse to treat the individual. Referral of an individual to another health care provider or facility based on reasonable professional judgment does not constitute refusal to treat the individual.</p> <p>(3) Not later than ninety days after November 1, 1989, each health care facility in this state shall establish a protocol to be followed by employees and individuals affiliated with the facility in making disclosures authorized by division (B)(2) of this section. A person employed by or affiliated with a health care facility who determines in accordance with the protocol established by the facility that a disclosure is authorized by division (B)(2) of this section is immune from liability to any person in a civil action for damages for injury, death, or loss to person or property resulting from the disclosure.</p> <p>(C) (1) Any person or government agency may seek access to or authority to disclose the HIV test records of an individual in accordance with the following provisions:</p> <p>(a) The person or government agency shall bring an action in a court of common pleas requesting disclosure of or authority to disclose the results of an HIV test of a specific individual, who shall be identified in the complaint by a pseudonym but whose name shall be communicated to the court confidentially, pursuant to a court order restricting the use of the name. The court shall provide the individual with notice and an opportunity to participate in the proceedings if the individual is not named as a party. Proceedings shall be conducted in chambers unless the individual agrees to a hearing in open court.</p> <p>(b) The court may issue an order granting the plaintiff access to or authority to disclose the test results only if the court finds by clear and convincing evidence that the plaintiff has demonstrated a compelling need for disclosure of the information that cannot be accommodated by other means. In assessing compelling need, the court shall weigh the need for disclosure against the privacy right of the individual tested and</p>

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	<p>against any disservice to the public interest that might result from the disclosure, such as discrimination against the individual or the deterrence of others from being tested.</p> <p>(c) If the court issues an order, it shall guard against unauthorized disclosure by specifying the persons who may have access to the information, the purposes for which the information shall be used, and prohibitions against future disclosure.</p> <p>(2) A person or government agency that considers it necessary to disclose the results of an HIV test of a specific individual in an action in which it is a party may seek authority for the disclosure by filing an in camera motion with the court in which the action is being heard. In hearing the motion, the court shall employ procedures for confidentiality similar to those specified in division (C)(1) of this section. The court shall grant the motion only if it finds by clear and convincing evidence that a compelling need for the disclosure has been demonstrated.</p> <p>(3) Except for an order issued in a criminal prosecution or an order under division (C)(1) or (2) of this section granting disclosure of the result of an HIV test of a specific individual, a court shall not compel a blood bank, hospital blood center, or blood collection facility to disclose the result of HIV tests performed on the blood of voluntary donors in a way that reveals the identity of any donor.</p> <p>(4) In a civil action in which the plaintiff seeks to recover damages from an individual defendant based on an allegation that the plaintiff contracted the HIV virus as a result of actions of the defendant, the prohibitions against disclosure in this section do not bar discovery of the results of any HIV test given to the defendant or any diagnosis that the defendant suffers from AIDS or an AIDS-related condition.</p> <p>(D) The results of an HIV test or the identity of an individual on whom an HIV test is performed or who is diagnosed as having AIDS or an AIDS-related condition may be disclosed to a federal, state, or local government agency, or the official representative of such an agency, for purposes of the medical assistance program established under section 5111.01 of the Revised Code, the medicare program established under Title XVIII of the "Social Security Act," 49 Stat. 620 (1935) 42 U.S.C.A. 301, as amended, or any other public assistance program.</p> <p>(E) Any disclosure pursuant to this section shall be in writing and accompanied by a written statement that includes the following or substantially similar language: "This information has been disclosed to you from confidential records protected from disclosure by state law. You shall make no further disclosure of this information without the specific, written, and informed release of the individual to whom it pertains, or as otherwise permitted by state law. A general authorization for the release of medical or other information is not sufficient for the purpose of the release of HIV test results or diagnoses."</p> <p>(F) An individual who knows that the individual has received a positive result on an HIV test or has been diagnosed as having AIDS or an AIDS-related condition shall disclose this information to any other person with</p>

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	<p>whom the individual intends to make common use of a hypodermic needle or engage in sexual conduct as defined in section 2907.01 of the Revised Code. An individual's compliance with this division does not prohibit a prosecution of the individual for a violation of division (B) of section 2903.11 of the Revised Code.</p> <p>(G) Nothing in this section prohibits the introduction of evidence concerning an HIV test of a specific individual in a criminal proceeding.</p>
§ 3701.245	<p>Public agencies may not require HIV results to obtain services</p> <p>(A) No state agency as defined in section 1.60 of the Revised Code, political subdivision, agency of local government, or private nonprofit corporation receiving state or local government funds shall refuse to admit as a patient, or to provide services to, any individual solely because he refuses to consent to an HIV test or to disclose HIV test results.</p> <p>(B) The prohibition contained in division (A) of this section does not prevent a physician or a person licensed to practice dentistry under Chapter 4715. of the Revised Code from referring an individual he has reason to believe may have AIDS or an AIDS-related condition to an appropriate health care provider or facility, if the referral is based on reasonable professional judgment and not solely on grounds of the refusal of the individual to consent to an HIV test or to disclose the result of an HIV test.</p>
§ 3701.246	<p>HIV testing of donated body parts or fluids</p> <p>Any human body part donated for transplantation, including an organ, tissue, eye, bone, artery, or other part, and any body fluid donated for transfusion or injection into another person, including blood, plasma, a blood product, semen, or other fluid, shall be given an HIV test before being transplanted, transfused, or injected to determine that the part or fluid is not infected with the HIV virus unless, in an emergency, the recipient of the donation or his guardian, after consultation with the recipient's physician, consents to a waiver of this requirement.</p>
§ 3701.247	<p>Action for order compelling HIV testing</p> <p>(A) (1) Any of the following persons may bring an action in a probate court for an order compelling another person to undergo HIV testing:</p> <ul style="list-style-type: none"> (a) A person who believes the person may have been exposed to HIV infection while rendering health or emergency care to the other person; (b) A peace officer who believes the peace officer may have been exposed to HIV infection while dealing with the other person in the performance of official duties. <p>(2) The complaint in the action shall be accompanied by an affidavit in</p>

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	<p>which the plaintiff attests to all of the following:</p> <p>(a) While rendering health or emergency care to the defendant, or while dealing with the defendant in the performance of the plaintiff's duties, the plaintiff sustained a significant exposure to body fluids of the defendant that are known to transmit HIV;</p> <p>(b) The plaintiff has reason to believe the defendant may have an HIV infection;</p> <p>(c) The plaintiff made a reasonable attempt to have the defendant submit to HIV testing in accordance with section 3701.242 [3701.24.2] of the Revised Code, and notified the defendant that he would bring an action under this section on the defendant's refusal or failure to be tested, but the defendant has not been tested;</p> <p>(d) Within seven days after the exposure, the plaintiff took an HIV test.</p> <p>In the complaint, the defendant shall be identified by a pseudonym and the defendant's name communicated to the court confidentially pursuant to a court order restricting the use of the name. Proceedings shall be conducted in chambers unless the defendant agrees to a hearing in open court.</p> <p>(B) The court shall hold a hearing on the complaint at the earliest possible time but not later than the third business day after the day the defendant is served with the complaint and notice of the hearing. The court shall enter judgment on the complaint on the day the hearing is concluded.</p> <p>(C) Notwithstanding division (A) of section 3701.242 [3701.24.2] of the Revised Code, the court may order the defendant to undergo HIV testing if it finds by clear and convincing evidence that the plaintiff has proved the matters attested to in the plaintiff's affidavit and has demonstrated that the plaintiff has a compelling need for the results of the test and no other means exist to accommodate the need. If granted, the order shall guard against unauthorized disclosure of the test results by specifying the persons and governmental entities that may have access to the results and by limiting further disclosure. The court shall require that the defendant be given test results and, if the defendant's test results are HIV-positive, that post-test counseling be provided the defendant in accordance with division (C) of section 3701.242 [3701.24.2] of the Revised Code. The court may order the plaintiff to pay the cost of the defendant's testing and counseling.</p>
§ 3701.248	<p>Exposed emergency medical or funeral services worker may request notice of test results</p> <p>(A) As used in this section:</p> <p>(1) "Contagious or infectious disease" means a disease specified by rule by the public health council pursuant to division (F) of this section.</p> <p>(2) "Patient" means either of the following:</p> <p>(a) A person, whether alive or dead, who has been treated, or handled, or transported for medical care by an emergency medical</p>

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	<p>services worker;</p> <p>(b) A deceased person whose body is handled by a funeral services worker.</p> <p>(3) "Significant exposure" means:</p> <p>(a) A percutaneous or mucous membrane exposure of an individual to the blood, semen, vaginal secretions, or spinal, synovial, pleural, peritoneal, pericardial, or amniotic fluid of another person;</p> <p>(b) Exposure to a contagious or infectious disease.</p> <p>(4) "Funeral services worker" means a person licensed as a funeral director or embalmer under Chapter 4717. of the Revised Code or an individual responsible for the direct final disposition of a deceased person.</p> <p>(B) (1) An emergency medical services worker or funeral services worker who believes that significant exposure has occurred through the worker's contact with a patient may submit to the health care facility or coroner that received the patient a written request to be notified of the results of any test performed on the patient to determine the presence of a contagious or infectious disease. The request shall include:</p> <p>(a) The name, address, and telephone number of the individual submitting the request;</p> <p>(b) The name of the individual's employer, or, in the case of a volunteer emergency medical services worker, the entity for which the worker volunteers, and the individual's supervisor;</p> <p>(c) The date, time, location, and manner of the exposure.</p> <p>(2) The request for notification that is submitted by an emergency medical services worker pursuant to division (B)(1) of this section is valid for ten days after it is made. If at the end of that ten-day period no test has been performed to determine the presence of a contagious or infectious disease, no diagnosis has been made, or the result of the test is negative, the health care facility or coroner shall notify the emergency medical services worker. The notification shall not include the name of the patient. If necessary, the request may be renewed in accordance with the same procedures and requirements as the original request.</p> <p>(3) A health care facility or coroner shall respond immediately to a request for notification submitted pursuant to division (B)(1) of this section by a funeral services worker. If no test has been performed to determine the presence of a contagious or infectious disease, no diagnosis has been made, or the result of a test that was performed is negative, the health care facility or coroner shall immediately notify the funeral services worker. The notification shall not include the name of the patient.</p> <p>On receipt of notification that no test has been performed to determine the presence of a contagious or infectious disease in a patient, the funeral services worker may have a test performed on the patient. The test shall be performed in accordance with rules adopted by the department of health pursuant to division (G) of this section.</p> <p>The consent of the patient's family is not required for performance of a test pursuant to division (B)(3) of this section.</p>

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	<p>(C) The health care facility or coroner that receives a written request for notification shall give an oral notification of the presence of a contagious or infectious disease, or of a confirmed positive test result, if known, to the person who made the request and the person's supervisor and to the infection control committee or other body described in division (E)(6) of section 3701.242 [3701.24.2] of the Revised Code within two days after determining the presence of a contagious or infectious disease or after a confirmed positive test result. A written notification shall follow oral notification within three days. If a contagious or infectious disease is present, or the test results are confirmed positive, both the oral and written notification shall include the name of the disease, its signs and symptoms, the date of exposure, the incubation period, the mode of transmission of the disease, the medical precautions necessary to prevent transmission to other persons, and the appropriate prophylaxis, treatment, and counseling for the disease. The notification shall not include the name of the patient.</p> <p>If the request is made by an emergency medical services worker and the information is not available from the health care facility to which the request is made because the patient has been transferred from that health care facility, the facility shall assist the emergency medical services worker in locating the patient and securing the requested information from the health care facility that treated or is treating the patient. If the patient has died, the health care facility shall give the emergency medical services worker the name and address of the coroner who received the patient.</p> <p>(D) Each health care facility and coroner shall develop written procedures to implement the notification procedures required by this section. A health care facility or coroner may take measures in addition to those required in this section to notify emergency medical services workers and funeral services workers of possible exposure to a contagious or infectious disease as long as the confidentiality of the information is maintained.</p> <p>(E) No person shall knowingly fail to comply with division (C) of this section.</p> <p>(F) The public health council shall adopt rules in accordance with Chapter 119. of the Revised Code that specify the diseases that are reasonably likely to be transmitted by air or blood during the normal course of duties performed by an emergency medical services worker or funeral services worker. In adopting such rules, the council shall consider the types of contact that typically occur between patients and emergency medical services workers and funeral services workers.</p> <p>(G) The department of health shall adopt rules in accordance with Chapter 119. of the Revised Code specifying the procedures a funeral services worker must follow when having a test performed on a patient</p>

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	pursuant to division (B)(3) of this section. The rules shall specify how and by whom the test is to be performed. The rules shall require the funeral services worker or the funeral services worker's employer to pay the cost of the test. No health care facility shall be required to perform the test.
§ 3701.249	<p>Immunity of employer of HIV infected person</p> <p>(A) As used in this section, "employer" and "employee" have the same meanings as in section 4112.01 of the Revised Code.</p> <p>(B) The employer of a person with HIV infection is immune from liability to any person in a civil action for damages for injury, death, or loss to person or property on a claim arising out of transmission of the human immunodeficiency virus from the infected employee to another employee or to any other person, unless the transmission occurs as a result of the reckless conduct of the employer.</p> <p>(C) An employer is immune from liability to an employee on a claim asserted under any provision of the Revised Code or in a civil action for damages for injury, death, or loss to person or property if the claim arises from an illness or injury to the employee that is stress-related and results from the employee being required to work with an individual who has received a positive result on an HIV test or has been diagnosed as having AIDS or an AIDS-related condition.</p>
§ 3724.03	<p>License to operate home - waiver of license requirement - temporary license.</p> <p>(A) Application for a license to operate a community alternative home shall be made by the operator to the director of health on forms provided by the director. After investigating the application and inspecting the home, the director shall issue a license if the director determines that the following requirements have been met:</p> <p>(7) The operator has developed policies for infection control and for educating caregivers about acquired immunodeficiency syndrome.</p>
§ 3773.34	<p>Powers of commission generally; annual report</p> <p>(A) The Ohio athletic commission shall adopt and may amend or rescind rules in accordance with Chapter 119. of the Revised Code, prescribing the conditions under which prize fights and public boxing or wrestling matches or exhibitions may be conducted, classifying professional boxers by weight, and providing for the administration of sections 3773.31 to 3773.57 of the Revised Code. The rules may require that an applicant for a contestant's license to participate in a public boxing match or exhibition take an HIV test, as defined in section 3701.24 of the Revised Code, before being issued the contestant's license and may require that a licensed contestant take such an HIV test before</p>

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	<p>participating in a public boxing match or exhibition. The commission may issue, deny, suspend, or revoke permits to hold prize fights and public boxing or wrestling matches or exhibitions, and may issue, deny, suspend, or revoke licenses to persons engaged in any public boxing match or exhibition as authorized by sections 3773.31 to 3773.57 of the Revised Code.</p> <p>(B) In addition to the duties set forth in this chapter, the Ohio athletic commission shall take action as necessary to carry out the provisions of Chapter 4771. of the Revised Code governing athlete agents.</p> <p>(C) On or before the thirty-first day of December of each year, the commission shall make a report to the governor of its proceedings for the year ending on the first day of December of that calendar year, and may include in the report any recommendations pertaining to its duties.</p>

Title [39] XXXIX Insurance

OH Title XXXIX Code §	Code Language
§ 3901.45	<p>Effect of sexual orientation, HIV, or AIDS or related condition.</p> <p>(B) In processing an application for an individual policy of life or sickness and accident insurance or in determining insurability of an applicant, no insurer shall:</p> <p>(1) Take into consideration an applicant's sexual orientation;</p> <p>(2) Make any inquiry toward determining an applicant's sexual orientation or direct any person who provides services to the insurer to investigate an applicant's sexual orientation;</p> <p>(3) Make a decision adverse to the applicant based on entries in medical records or other reports that show that the applicant has sought an HIV test, consultation regarding the possibility of developing AIDS or an AIDS-related condition, or counseling for concerns related to AIDS from health care professionals unless there has been a diagnosis, confirmed by a positive HIV test, of AIDS or an AIDS-related condition or the applicant has been treated for either.</p> <p>(C)(1) In developing and asking questions regarding medical histories and lifestyles of applicants for life or sickness and accident insurance and in assessing the answers, an insurer shall not ask questions designed to ascertain the sexual orientation of the applicant nor use factors such as marital status, living arrangements, occupation, gender, medical history, beneficiary designation, or zip code or other geographic designation to aid in ascertaining the applicant's sexual orientation.</p> <p>(2) An insurer may ask the applicant if he has ever been diagnosed as having AIDS or an AIDS-related condition.</p> <p>(3) An insurer may ask the applicant specifically whether he has ever had a positive result on an HIV test. "Positive result" means a result interpreted as positive in accordance with guidelines developed by the director of health under division (B)(1)(a) of section 3701.241 of the Revised Code, even though the applicant may have been tested in another state. "Positive result" does not mean an initial positive result that further testing showed to be false.</p> <p>(4) The insurer shall not ask the applicant whether he has ever taken an HIV test.</p> <p>(D)(1) Except as provided in division (D)(2) of this section, no insurer shall cancel a policy of life or sickness and accident insurance, or refuse to renew a policy of life or sickness and accident insurance other than a policy that is renewable at the option of the insurer, based solely on the fact that, after the effective date of the policy, the</p>

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	<p>policyholder is diagnosed as having AIDS, an AIDS-related condition, or an HIV infection.</p> <p>(2) If a policy of life or sickness and accident insurance provides for a contestability period, an insurer may cancel the policy during the contestability period if the applicant made a false statement in the application with regard to the question of whether he has been diagnosed as having AIDS, an AIDS-related condition, or an HIV infection.</p> <p>(E) No insurer shall deliver, issue for delivery, or renew a policy of life or sickness and accident insurance that limits benefits or coverage in the event that, after the effective date of the policy, the insured develops AIDS or an AIDS-related condition or receives a positive result on an HIV test.</p> <p>(F) An insurer is not required to offer coverage under a policy of life or sickness and accident insurance to an individual or group member, or a dependent of an individual or group member, who has AIDS or an AIDS-related condition, or who has had a positive result on an HIV test.</p> <p>(G) An insurer is not required to continue to provide coverage under a policy of life or sickness and accident insurance to an individual or group member, or a dependent of an individual or group member, if the insurer determines the individual or group member or dependent of the individual or group member knew on the effective date of the policy that he had AIDS, an AIDS-related condition, or a positive result of an HIV test.</p> <p>(H) A violation of this section is an unfair insurance practice under sections 3901.19 to 3901.26 of the Revised Code.</p>
§ 3901.46	<p>When insurer may require HIV testing of applicant</p> <p>As used in this section, "membership organization" means a fraternal or other association or group of individuals involved in the same occupation, activity, or interest that is organized and maintained in good faith for purposes other than to obtain insurance and is not organized or maintained for the purpose of engaging in activities for gain or profit.</p> <p>(A) In underwriting an individual policy of life or sickness and accident insurance or a group policy of life or sickness and accident insurance providing coverage for members of a membership organization, an insurer may require an applicant for coverage under the policy to submit to an HIV test only in conjunction with tests for other health conditions. No applicant shall be required to submit to an HIV test on the basis of the applicant's sexual orientation or factors described in division (C)(1) of section 3901.45 of the Revised Code</p>

OH Title XXXIX Code §	Code Language
	<p>that are used to ascertain the applicant's sexual orientation.</p> <p>(B) (1) An insurer that requests an applicant to take an HIV test shall obtain the applicant's written consent for the test and shall inform the applicant of the purpose of the test. The consent form shall include information about the tests to be performed, the confidentiality of the results, procedures for notifying the applicant of the results, and a general interpretation of test results.</p> <p>(2) The superintendent of insurance shall adopt rules under Chapter 119. of the Revised Code establishing the form and content of the consent required under division (B)(1) of this section.</p> <p>(C) An insurer may disclose the results of a positive HIV test only to the following persons:</p> <ol style="list-style-type: none"> (1) The applicant; (2) The applicant's or insured's physician or other health care provider if the applicant or insured provides the insurer with prior written consent for disclosure; (3) Another person that the applicant or insured specifically designates in writing; (4) A medical information exchange for insurers operated under procedures intended to ensure confidentiality, including the use of general codes for results of tests for a number of diseases and conditions as well as for AIDS or an AIDS-related condition. <p>(D) The HIV test or tests to be given the applicant shall be a test or tests approved by the director of health pursuant to division (B) of section 3701.241 [3701.24.1] of the Revised Code. Test results shall be interpreted strictly in accordance with guidelines for the use of the tests adopted by the director.</p> <p>(E) The requirements of division (B) of section 3701.24 and sections 3701.242 and 3701.243 [3701.24.2 and 3701.24.3] of the Revised Code do not apply to insurers in the underwriting of an individual policy of life or sickness and accident insurance or of a group policy of life or sickness and accident insurance providing coverage for members of a membership organization, except that an insurer may make use of the procedures in division (C) of section 3701.243 [3701.24.3] of the Revised Code.</p> <p>(F) In underwriting a group policy of life or sickness and accident insurance, no insurer shall require an individual seeking coverage, other than an individual seeking coverage under the policy of a membership organization, to submit to an HIV test.</p> <p>(G) A violation of this section is an unfair insurance practice under sections 3901.19 to 3901.26 of the Revised Code.</p>

Title [47] XLVII Occupations – Professions

Title XLVII Code §	Code Language
§ 4730.25	<p>Disciplinary actions (Physician Assistants).</p> <p>(B) The board, by an affirmative vote of not fewer than six members, shall, to the extent permitted by law, limit, revoke, or suspend an individual's certificate to practice as a physician assistant or certificate to prescribe, refuse to issue a certificate to an applicant, refuse to reinstate a certificate, or reprimand or place on probation the holder of a certificate for any of the following reasons:</p> <p>(4) Inability to practice according to acceptable and prevailing standards of care by reason of mental illness or physical illness, including physical deterioration that adversely affects cognitive, motor, or perceptive skills;</p> <p>(F) For purposes of this division, any individual who holds a certificate issued under this chapter, or applies for a certificate issued under this chapter, shall be deemed to have given consent to submit to a mental or physical examination when directed to do so in writing by the board and to have waived all objections to the admissibility of testimony or examination reports that constitute a privileged communication.</p> <p>(1) In enforcing division (B)(4) of this section, the board, upon a showing of a possible violation, may compel any individual who holds a certificate issued under this chapter or who has applied for a certificate pursuant to this chapter to submit to a mental examination, physical examination, including an HIV test, or both a mental and physical examination. The expense of the examination is the responsibility of the individual compelled to be examined. Failure to submit to a mental or physical examination or consent to an HIV test ordered by the board constitutes an admission of the allegations against the individual unless the failure is due to circumstances beyond the individual's control, and a default and final order may be entered without the taking of testimony or presentation of evidence. If the board finds a physician assistant unable to practice because of the reasons set forth in division (B)(4) of this section, the board shall require the physician assistant to submit to care, counseling, or treatment by physicians approved or designated by the board, as a condition for an initial, continued, reinstated, or renewed certificate . An individual affected under this division shall be afforded an opportunity to demonstrate to the board the ability to resume practicing in compliance with acceptable and prevailing standards of care.</p>
§ 4731.22	<p>Disciplinary actions (Physicians; limited practitioners).</p> <p>(B) The board, by an affirmative vote of not fewer than six members, shall, to the extent permitted by law, limit, revoke, or suspend an individual's certificate to practice, refuse to register an individual, refuse to reinstate a certificate, or reprimand or place on probation the holder of a certificate for one or more of the following reasons:</p>

Title XLVII Code §	Code Language
	<p>(19) Inability to practice according to acceptable and prevailing standards of care by reason of mental illness or physical illness, including, but not limited to, physical deterioration that adversely affects cognitive, motor, or perceptive skills.</p> <p>In enforcing this division, the board, upon a showing of a possible violation, may compel any individual authorized to practice by this chapter or who has submitted an application pursuant to this chapter to submit to a mental examination, physical examination, including an HIV test, or both a mental and a physical examination. The expense of the examination is the responsibility of the individual compelled to be examined. Failure to submit to a mental or physical examination or consent to an HIV test ordered by the board constitutes an admission of the allegations against the individual unless the failure is due to circumstances beyond the individual's control, and a default and final order may be entered without the taking of testimony or presentation of evidence. If the board finds an individual unable to practice because of the reasons set forth in this division, the board shall require the individual to submit to care, counseling, or treatment by physicians approved or designated by the board, as a condition for initial, continued, reinstated, or renewed authority to practice. An individual affected under this division shall be afforded an opportunity to demonstrate to the board the ability to resume practice in compliance with acceptable and prevailing standards under the provisions of the individual's certificate. For the purpose of this division, any individual who applies for or receives a certificate to practice under this chapter accepts the privilege of practicing in this state and, by so doing, shall be deemed to have given consent to submit to a mental or physical examination when directed to do so in writing by the board, and to have waived all objections to the admissibility of testimony or examination reports that constitute a privileged communication.</p>
§ 4760.13	<p>Disciplinary actions (Anesthesiologist assistants).</p> <p>(B) The board, by an affirmative vote of not fewer than six members, shall, to the extent permitted by law, limit, revoke, or suspend an individual's certificate of registration as an anesthesiologist assistant, refuse to issue a certificate to an applicant, refuse to reinstate a certificate, or reprimand or place on probation the holder of a certificate for any of the following reasons:</p> <p>(5) Inability to practice according to acceptable and prevailing standards of care by reason of mental illness or physical illness, including physical deterioration that adversely affects cognitive, motor, or perceptive skills;</p> <p>(F) For purposes of this division, any individual who holds a certificate of registration issued under this chapter, or applies for a certificate of registration, shall be deemed to have given consent to submit to a</p>

Title XLVII Code §	Code Language
	<p>mental or physical examination when directed to do so in writing by the board and to have waived all objections to the admissibility of testimony or examination reports that constitute a privileged communication.</p> <p>(1) In enforcing division (B)(5) of this section, the board, on a showing of a possible violation, may compel any individual who holds a certificate of registration issued under this chapter or who has applied for a certificate of registration pursuant to this chapter to submit to a mental or physical examination, or both. A physical examination may include an HIV test. The expense of the examination is the responsibility of the individual compelled to be examined. Failure to submit to a mental or physical examination or consent to an HIV test ordered by the board constitutes an admission of the allegations against the individual unless the failure is due to circumstances beyond the individual's control, and a default and final order may be entered without the taking of testimony or presentation of evidence. If the board finds an anesthesiologist assistant unable to practice because of the reasons set forth in division (B)(5) of this section, the board shall require the anesthesiologist assistant to submit to care, counseling, or treatment by physicians approved or designated by the board, as a condition for an initial, continued, reinstated, or renewed certificate of registration. An individual affected by this division shall be afforded an opportunity to demonstrate to the board the ability to resume practicing in compliance with acceptable and prevailing standards of care.</p>
§ 4762.13	<p>Revocation or suspension of certificate (Acupuncturists).</p> <p>(B) The board, by an affirmative vote of not fewer than six members, shall, to the extent permitted by law, limit, revoke, or suspend an individual's certificate of registration as an acupuncturist, refuse to issue a certificate to an applicant, refuse to reinstate a certificate, or reprimand or place on probation the holder of a certificate for any of the following reasons:</p> <p>(5) Inability to practice according to acceptable and prevailing standards of care by reason of mental illness or physical illness, including physical deterioration that adversely affects cognitive, motor, or perceptive skills;</p> <p>(F) For purposes of this division, any individual who holds a certificate of registration issued under this chapter, or applies for a certificate of registration, shall be deemed to have given consent to submit to a mental or physical examination when directed to do so in writing by the board and to have waived all objections to the admissibility of testimony or examination reports that constitute a privileged communication.</p> <p>(1) In enforcing division (B)(5) of this section, the board, upon a showing of a possible violation, may compel any individual who holds a certificate of registration issued under this chapter or who has applied for a certificate of registration pursuant to this chapter to submit to a mental</p>

Title XLVII Code §	Code Language
	<p>examination, physical examination, including an HIV test, or both a mental and physical examination. The expense of the examination is the responsibility of the individual compelled to be examined. Failure to submit to a mental or physical examination or consent to an HIV test ordered by the board constitutes an admission of the allegations against the individual unless the failure is due to circumstances beyond the individual's control, and a default and final order may be entered without the taking of testimony or presentation of evidence. If the board finds an acupuncturist unable to practice because of the reasons set forth in division (B)(5) of this section, the board shall require the acupuncturist to submit to care, counseling, or treatment by physicians approved or designated by the board, as a condition for an initial, continued, reinstated, or renewed certificate of registration. An individual affected by this division shall be afforded an opportunity to demonstrate to the board the ability to resume practicing in compliance with acceptable and prevailing standards of care.</p>

Title [51] LI Public Welfare

OH Title LI Code §	Code Language
§ 5120.163	Testing and treatment for certain diseases At the time of reception and at other times the director determines to be appropriate, the department of rehabilitation and correction may examine and test a prisoner for tuberculosis, HIV infection, hepatitis, including but not limited to hepatitis A, B, and C, and other contagious diseases. The department may test and treat involuntarily a prisoner in a state correctional institution who refuses to be tested or treated for tuberculosis, HIV infection, hepatitis, including but not limited to hepatitis A, B, and C, or another contagious disease.

Ohio Administrative Code – Title 3701: Department of Health
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Title 3701 OAC	Code Language
3701-3-022	<p>Air- and blood-borne diseases reasonably likely to be transmitted to emergency medical services workers.</p> <p>(A) Section 3701.248 of the Revised Code allows an emergency medical services worker to ask a health care facility or coroner to notify them of the results of tests for certain diseases, if the worker believes that he or she had a significant exposure through contact with a patient. The diseases subject to this procedure are contagious or infectious diseases that the public health council, by rule, has specified as reasonably likely to be transmitted by air or blood during the normal course of an emergency medical services worker's duties. The diseases listed in paragraph (B) of this rule are specified for purposes of section 3701.248 of the Revised Code.</p> <p>(B) The following diseases are specified as reasonably likely to be transmitted by air or blood during the normal course of an emergency medical worker's duties:</p> <p>(9) Human immunodeficiency virus (HIV) infection, including acquired immunodeficiency syndrome (AIDS) and AIDS-related illnesses;</p>
3701-3-10	<p>Approval of human immunodeficiency virus tests.</p> <p>(A) In approving tests to be used to determine whether an individual has human immunodeficiency virus infection under division (B)(1) of section 3701.241 of the Revised Code, the director of health shall consider:</p> <ol style="list-style-type: none"> (1) Whether the test has been approved by the United States food and drug administration, in the case of an enzyme immunoassay test. (2) The recommendations of the United States centers for disease control and the association of state and territorial public health laboratory directors, in the case of other tests, including tests to confirm the results of an enzyme immunoassay test. The director shall approve the "Western Blot Assay" confirmatory test. <p>(B) The director shall define a confirmed positive test result as</p> <ol style="list-style-type: none"> (1) Two or more reactive enzyme immunoassay tests on the same specimen followed by a positive "Western Blot Assay"; (2) Two or more reactive enzyme immunoassay tests on the same specimen followed by a positive "Immunofluorescence Assay"; (3) A positive culture of the human immunodeficiency virus; (4) A positive reaction to an human immunodeficiency virus antigen test licensed by the United States food and drug administration; (5) Identification of the human immunodeficiency virus by the use of polymerase chain reaction or nucleic acid probe to detect the presence of human immunodeficiency virus genetic material; (6) The director may define other confirmed positive test results after consideration of the recommendations of the United States

Title 3701 OAC	Code Language
	<p>centers for disease control and the association of state and territorial public health laboratory directors.</p> <p>(C) In developing guidelines for interpreting test results, the director shall:</p> <p>(1) Require that the results of an enzyme immunoassay test approved by the United States food and drug administration be interpreted in accordance with the instructions of the manufacturer.</p> <p>(2) Require that the "Western Blot Assay" confirmatory test be interpreted in accordance with the criteria set forth in the appendix to this rule, "Interpretation and use of the Western Blot Assay for Serodiagnosis of Human Immunodeficiency Virus Type 1 Infections," as published in "Morbidity and Mortality Weekly Report," United States centers for disease control, volume 38, number S-7, July 21, 1989.</p> <p>(3) Require that the results of an immunofluorescence assay approved by the United States food and drug administration be interpreted in accordance with the instructions of the manufacturer.</p> <p>(4) Require that the results of culture for the human immunodeficiency virus be interpreted in accordance with laboratory standards and procedures prescribed or accepted by the association of state and territorial public health laboratory directors.</p> <p>(5) Require that the results of an antigen test to the human immunodeficiency virus be interpreted in accordance with the instructions of the manufacturer.</p> <p>(6) Require that the results of a polymerase chain reaction or nucleic acid probe performed to detect the presence of infection with the human immunodeficiency virus be interpreted in accordance with the instructions of the manufacturer.</p> <p>(7) Consider interpretation criteria established by the United States centers for disease control and the association of state and territorial public health laboratory directors in developing guidelines for interpreting results of other tests that may be approved.</p>
3701-3-11	<p>Requirements relating to human immunodeficiency virus testing</p> <p>A) A human immunodeficiency virus (HIV) test shall be performed only if, prior to the test, informed consent is obtained either by the person or agency of state or local government ordering the test. A facility or physician may adopt a policy to offer routine and voluntary testing to all patients admitted to a facility or under the physician's care in accordance with the provisions of this rule. Consent may be given orally or in writing after the person or agency performing or ordering the test or the facility or physician ordering the test has given orally, in writing, or through an electronic means, including videotape, the following information to the individual to be tested or his guardian:</p> <p>(1) An explanation of the test and testing procedures, including the purposes and limitations of the test and the meaning of its results;</p> <p>(a) The explanation of the test and testing procedures shall include a statement that:</p> <p>(1) The test is conducted on a blood sample or another body fluid</p>

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	<p>taken from the individual tested and whether the test determines the presence of antibodies to HIV or detects infection with HIV in another manner.</p> <p>(2) When the test to be performed is a test for antibodies to HIV, the explanation also shall include a statement that if the first test is positive, additional tests will be performed on the same blood or body fluid sample or an additional sample may be taken; and</p> <p>(b) The explanation of the meaning of the test results shall include a statement that a positive test result means that the individual tested has been exposed to HIV and is infected but that the symptoms and development of the HIV related disease may take ten years or more to occur. The explanation also shall include a statement that if the individual has been exposed to HIV but presently has negative test results, future retesting is advisable because of the amount of time after exposure required for the body to produce antibodies to HIV.</p> <p>(2) An explanation that the test is voluntary, that consent to be tested may be withdrawn at any time before the individual tested leaves the premises where the blood or other body fluid sample is taken for the test and that the individual or guardian may elect to have an anonymous test; and</p> <p>(3) An explanation about behaviors known to pose risks for transmission of HIV infection. This explanation shall focus on ways in which HIV may be transmitted, such as sexual intercourse (i.e. anal, vaginal, or oral sex), sharing of needles, from an infected pregnant woman to her fetus, from infected mother to child through breast feeding, and through blood transfusion that occurred prior to 1985, or other ways in which the person or agency providing the information reasonably believes are possible ways that the individual to whom the information is given may have been exposed to HIV or may transmit HIV.</p> <p>(B) In preparing the informed consent form referred to by division (A) of section 3701.242 of the Revised Code, the director also may include in the form other information that may be useful to an individual seeking HIV testing. Use of the informed consent form prepared and distributed by the director under division (A) of section 3701.242 of the Revised Code and under this paragraph is not mandatory, but a person or government agency required by division (A) of section 3701.242 of the Revised Code and paragraph (A) of this rule to give information to an individual may satisfy the requirement by obtaining the signature of the individual on the form prepared by the director.</p> <p>(C) A minor may consent to be given an HIV test. The consent is not subject to disaffirmance because of minority. The parents or guardian of a minor giving consent under this division are not liable for payments for an HIV test given to the minor without the consent of a parent or the guardian.</p> <p>(D) The person or government agency ordering an HIV test shall provide counseling for the individual at the time he is told of the result</p>

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	<p>of the test or informed of a diagnosis of AIDS or an HIV related condition. If the test was performed upon the request of the individual tested, the person or government agency that performed the test shall provide counseling. The individual shall be given an oral or written explanation of the nature of HIV, HIV related conditions, and AIDS and the relationship between the HIV test and those diseases and a list of resources for further counseling or support. When necessary, the individual shall be referred for further counseling to help that individual cope with the emotional consequences of learning the test result.</p> <p>(E) Any individual seeking an HIV test shall have the right, on the individual's request, to an anonymous test. A health care facility or health care provider that does not provide anonymous testing shall refer an individual requesting an anonymous test to a site where it is available.</p> <p>(F) The requirements of paragraphs (A) to (E) of this rule do not apply to the performance of an HIV test in any of the following circumstances:</p> <p>(1) When the test is performed in a medical emergency by a nurse or physician and the test results are medically necessary to avoid or minimize an immediate danger to the health or safety of the individual to be tested or another individual, except that counseling shall be given to the individual as soon as possible after the emergency is over;</p> <p>(2) When the test is performed for the purpose of research if the researcher does not know and cannot determine the identity of the individual tested;</p> <p>(3) When the test is performed by a person who procures, processes, distributes, or uses a human body part from a deceased person donated for a purpose specified in Chapter 2108. of the Revised Code, if the test is medically necessary to ensure that the body part is acceptable for its intended purpose;</p> <p>(4) When the test is performed on a person incarcerated in a penal institution if the head of the institution has determined, based on good and medical cause, that a test is necessary;</p> <p>(5) When the test is performed by or on the order of a physician who, in the exercise of his professional judgement, determines the test to be necessary for providing diagnosis and treatment to the individual to be tested, if the individual or the individual's parent or guardian has given consent to the physician for medical treatment;</p> <p>(6) When the test is performed on an individual after the infection control committee of a health care facility, or other body of a health care facility performing a similar function determines that a health care provider, emergency medical services worker, or peace officer, while rendering health or emergency care to an individual, has sustained significant exposure to the body fluids of that individual, and the individual has refused to give consent for testing; and</p> <p>(G) The consent of the individual to be tested is not required, and the individual or guardian may not elect to have an anonymous test, when</p>

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	the test is ordered by a court in connection with a criminal investigation.
3701-3-12	<p>AIDS, ARC, and HIV test reporting</p> <p>(A) As used in this rule:</p> <p>(1) "AIDS" means the illness designated as acquired immunodeficiency syndrome as further defined in appendix A of this rule.</p> <p>(2) "ARC" is a historic term having the same meaning as in section 3701.24 of the Revised Code.</p> <p>(3) "A CD4 count" means a count of lymphocytes containing the CD4 epitope as determined by the results of lymphocyte phenotyping.</p> <p>(4) "Health care facility" has the same meaning as in section 3701.24 of the Revised Code.</p> <p>(5) "HIV" means the human immunodeficiency virus identified as the causative agent of AIDS.</p> <p>(6) "HIV infection" means the same as defined in appendix B of this rule.</p> <p>(B) Persons required to report cases of AIDS ARC, HIV, confirmed positive tests for HIV, and HIV infections under division (C) of section 3701.24 of the Revised Code and this rule are as follows:</p> <p>(1) Cases of AIDS, ARC, HIV infections and a CD4 + T lymphocyte count below two hundred cells per microliter or a CD4 + T lymphocyte percentage of less than fourteen when an HIV infection has not been ruled out as the cause shall be reported by any attending health care provider as defined in section 3701.24 of the Revised Code In an institutional or health care facility setting, a designated agent including, but not limited to, an infection control practitioner may make the report for the attending health care provider.</p> <p>(2) Confirmed positive HIV tests, as defined in rule 3701-3-10 of the Administrative Code, and a CD4 + T lymphocyte count below two hundred cells per microliter or a CD4 + T lymphocyte percentage of less than fourteen when an HIV infection has not been ruled out as the cause shall be reported by the person in charge of the laboratory performing the test. If a second laboratory is used for additional or confirmatory testing, the person in charge of the laboratory first receiving the specimen shall report the confirmed positive test.</p> <p>(C) The persons designated by paragraph (B) of this rule shall report promptly every case of AIDS, every ARC, and every confirmed positive HIV test, every HIV infection, and every CD4 + T lymphocyte count below two hundred cells per microliter or a CD4 + T lymphocyte percentage of less than fourteen when an HIV infection has not been ruled out as the cause to the department of health on forms and in a manner prescribed by the director. In each county the director shall designate the health commissioner of a health district in the county to receive the reports.</p>

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	(D) Every health care provider attending a newborn infant or child born to an HIV infected mother shall report promptly every case of such perinatal exposure to HIV and any subsequent test results on every such exposed newborn infant or child until such time that either an HIV infection or a seroconversion status that is negative is confirmed. In an institutional or health care facility setting, a designated agent, including, but not limited to, an infection control practitioner, may make the report for the attending health care provider.

Ohio Administrative Code – Title 3773: Ohio Athletic Commission

Title 3773 OAC	Code Language
3773-4-02	Physical requirements. (A) An application for a professional boxer's license shall also include a copy of the results of a physical examination given by a licensed medical doctor or doctor of osteopathic medicine on a form issued by the commission. (B) The following test results from a certified laboratory or physician must also be included with the physical form: (3) Negative HIV;
3773-7-21	Medical requirements for professional mixed martial arts contestants. (A) Negative HIV

Ohio Administrative Code – Title 5101: Department of Job and Family Services

Title 5101 OAC	Code Language
5101:3-4-07	<p>Family planning services.</p> <p>(A) Family planning is the means of enabling individuals of childbearing age, including minors who can be considered to be sexually active, to determine freely the number and spacing of their children.</p> <p>(B) Covered family planning services include medical, consultative, and educational services related to:</p> <p>(1) Temporary contraceptive management;</p> <p>(3) Physical and emotional reproductive health of the patient;</p> <p>(1) The following laboratory procedures are covered as family planning services when performed for contraceptive or procreative (other than infertility) management:</p> <p>(g) Sexually transmitted infection testing; cultures.</p> <p>(3) The following laboratory procedures for the screening of sexually transmitted infections, including gonorrhea or syphilis, are covered family planning services when the physician believes that the patient is at high-risk of contracting such diseases or the patient has symptoms indicative of such infections:</p> <p>(g) HIV.</p>

Ohio Administrative Code – Title 5120: Department of Rehabilitation and Corrections
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Title 5120 OAC	Code Language
5120-9-58	<p>Acquired immune deficiency syndrome.</p> <p>(A) In conjunction with the Ohio department of health, the department of rehabilitation and correction shall conduct human immunodeficiency virus (hereafter "HIV") testing on all inmates upon admission.</p> <p>(B) Testing for HIV at other times can be required of an inmate when ordered by a judge of appropriate jurisdiction or when the head of the institution has determined, based on good cause, that a test is necessary.</p> <p>(C) The results of an HIV test or a diagnosis of AIDS or an AIDS-related condition may be disclosed to institution or department staff members or contractors. Such disclosure shall only be made to staff and contractors who have a medical need to know and who are participating in the diagnosis, care or treatment of the individual on whom the test was performed or who has been diagnosed as having AIDS or an AIDS-related condition. Disclosure shall be made consistent with the appropriate protocol developed as required by division (B)(3) of section 3701.243 of the Revised Code.</p> <p>(D) Inmates who have tested positive for the HIV virus or who have been diagnosed as having AIDS or an AIDS-related condition shall be assigned to such housing within the department of rehabilitation and correction as meets the medical and security needs of the inmate.</p>